

stone Grange, No. 2, of Montgomery County, Pa., for the enactment of Senate bill 5842, relating to oleomargarine; to the Committee on Agriculture.

Also, petition of Thomas Haigh, of Richland Center, Pa., commander of Post No. 145, Grand Army of the Republic, Department for Pennsylvania, for an appropriation for the immediate construction of the Lincoln memorial road from Washington to Gettysburg; to the Committee on the Library.

Also, preambles and resolutions of the Manufacturers' Club of Philadelphia, against the enactment of legislation for so-called reciprocity with Canada as provided in the recent agreement; to the Committee on Ways and Means.

Also, petition of Local Union No. 465, United Brotherhood of Carpenters and Joiners of America, of Ardmore, Montgomery County, Pa., for the construction of the battleship *New York* in a Government navy yard; to the Committee on Naval Affairs.

By Mr. WOOD of New Jersey: Petition of Grande View Grange, No. 124, Patrons of Husbandry, Flemington, N. J., and Ringoes Grange, No. 12, Patrons of Husbandry, Ringoes, N. J., against Canadian reciprocity treaty; to the Committee on Ways and Means.

Also, petition of Robert T. Messler and other citizens of Somerville, N. J., and George M. Gill, of Orange, N. J., against increase of postage on second-class matter; to the Committee on the Post Office and Post Roads.

Also, petition of De Laval Separator Co., of New York, against placing centrifugal cream separators on the free list; to the Committee on Ways and Means.

Also, petition of Raritan Valley Grange, No. 101, Patrons of Husbandry, of South Branch, N. J., and Heightstown Grange, No. 96, of Cranbury, N. J., against reciprocal tariff with Canada; to the Committee on Ways and Means.

Also, petition of Manuel Kline, jr., and other citizens of Trenton, N. J., for building battleship *New York* in a Government navy yard; to the Committee on Naval Affairs.

## SENATE.

FRIDAY, February 17, 1911.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The VICE PRESIDENT resumed the chair.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. BEVERIDGE, and by unanimous consent, the further reading was dispensed with and the Journal was approved.

### USELESS PAPERS IN DEPARTMENT OF COMMERCE AND LABOR.

The VICE PRESIDENT. The Chair lays before the Senate a communication from the Secretary of Commerce and Labor, transmitting, pursuant to law, a list of useless papers in that department which are not needed or useful in the transaction of the current business. The communication and accompanying papers will be referred to the Select Committee on the Disposition of Useless Papers in the Executive Departments, and the Chair appoints the Senator from Arkansas [Mr. CLARKE] and the Senator from New Hampshire [Mr. GALLINGER] members of the committee on the part of the Senate. The Secretary will notify the House of the appointment thereof.

### UNIVERSAL RACE CONGRESS.

The VICE PRESIDENT laid before the Senate a communication from the executive committee of the Universal Race Congress of London, England, extending an invitation to the Congress of the United States to attend the first universal race congress to be held in the University of London July 26 to 29, 1911, which was referred to the Committee on Foreign Relations.

### SENATOR FROM TEXAS.

Mr. BAILEY presented the credentials of CHARLES A. CULBERSON, chosen by the Legislature of the State of Texas as a Senator from that State for the term beginning March 4, 1911, which were read and ordered to be filed.

### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by W. J. Browning, its Chief Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 6953) authorizing contracts for the disposition of waters of projects under reclamation acts, and for other purposes.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to

the bill (H. R. 31237) making appropriation for the support of the Army for the fiscal year ending June 30, 1912; further insists upon its disagreement to the amendments of the Senate Nos. 18 and 49 to the bill; recedes from its disagreement to the amendment of the Senate No. 23, and agrees to the same with an amendment, in which it requested the concurrence of the Senate; agrees to the further conference asked for by the Senate on the disagreeing votes of the two Houses thereon; and had appointed Mr. HULL of Iowa, Mr. PRINCE, and Mr. SULZER managers at the conference on the part of the House.

### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the Vice President:

H. R. 11798. An act to enable any State to cooperate with any other State or States, or with the United States, for the protection of the watersheds of navigable streams, and to appoint a commission for the acquisition of lands for the purpose of conserving the navigability of navigable rivers;

H. R. 24123. An act for the relief of the legal representatives of William M. Wightman, deceased;

H. R. 27837. An act to amend the provisions of the act of March 3, 1885, limiting the compensation of storekeepers, gaugers, and storekeeper-gaugers, in certain cases, to \$2 a day, and for other purposes;

H. R. 31056. An act to ratify a certain lease with the Seneca Nation of Indians; and

H. R. 31662. An act granting five years' extension of time to Charles H. Cornell, his assigns, assignees, successors, and grantees, in which to construct a dam across the Niobrara River, on the Fort Niobrara Military Reservation, and to construct electric light and power wires and telephone line and trolley or electric railway, with telegraph and telephone lines, across said reservation.

### PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented a memorial of the Home Market Club, of Boston, Mass., remonstrating against the ratification of the proposed reciprocal agreement between the United States and Canada, which was referred to the Committee on Finance.

He also presented a petition of the Boot and Shoe Club, of Boston, Mass., praying for the ratification of the proposed reciprocal agreement between the United States and Canada, which was referred to the Committee on Finance.

He also presented the memorial of Pearl Wight, of New Orleans, La., remonstrating against the passage of the so-called Scott antioption bill relative to dealing in cotton futures, which was referred to the Committee on Interstate Commerce.

He also presented resolutions adopted at a meeting of the National Association of Box Manufacturers held at Memphis, Tenn., praying for the establishment of a permanent tariff board, which were ordered to lie on the table.

He also presented resolutions adopted by the Iowa Association of the Philippine Islands, relative to the death of the late Senator JONATHAN P. DOLLIVER, of Iowa, which were ordered to lie on the table.

Mr. BEVERIDGE. I present a telegram from Thomas McCullough, manager of the National Association of Box Manufacturers, which I ask be printed in the RECORD.

There being no objection, the telegram was ordered to lie on the table and to be printed in the RECORD, as follows:

MEMPHIS, TENN., February 16, 1911.

Senator A. J. BEVERIDGE,  
Washington, D. C.:

The following resolutions were passed by the National Association of Box Manufacturers. Please use in promoting the cause of a permanent tariff commission:

"Resolved, That we, the National Association of Box Manufacturers, in convention assembled at Memphis, Tenn., on this, the 16th day of February, 1911, do heartily indorse the establishment of a permanent tariff commission.

"Resolved, That this resolution shall be forwarded to the President of the United States and to both branches of Congress."

THOS. MCCULLOUGH, Manager.

Mr. BEVERIDGE. I also present the following telegrams to be printed in the RECORD without reading.

The VICE PRESIDENT. The telegrams will be printed in the RECORD if there be no objection.

Mr. SCOTT. I certainly will object, because we all get such telegrams, and if we put them all in the RECORD it would be so large that it would take a cart to haul it.

Mr. BEVERIDGE. If the Senator objects I will simply say that most of them are from my own State, and that they are on both sides.

Mr. SCOTT. If the Senator will look across the aisle, he will see the telegrams the Senator from North Carolina [Mr. OVERMAN] has in his hand to present.

Mr. BEVERIDGE. I always look at him when I have an opportunity, but I should like to have these telegrams printed in the Record.

Mr. SCOTT. I object.

The VICE PRESIDENT. Objection is made.

The telegrams were ordered to lie on the table, as follows: Telegrams from C. J. Lindsay, manager of the C. J. Lindsay News Co., of Indianapolis, Ind.; the Van Camp Hardware & Iron Co., of Indianapolis, Ind.; Elkin Wallick, of Indianapolis, Ind.; A. J. Rowland, president of the International Sunday School Council, of Philadelphia, Pa.; John R. Bonnell, of Crawfordsville, Ind.; the Indianapolis Book & Stationery Co., of Indianapolis, Ind.; Charles A. Phelps, of Fort Wayne, Ind.; the Adsell League, of South Bend, Ind., representing advertising interests in South Bend, Mishawaka, La Porte, Goshen, Elkhart, Michigan City, and Ligonier, in the State of Indiana, and Niles in the State of Michigan; Hibben Hollweg & Co., of Indianapolis, Ind.; the United Motor Co., of Indianapolis, Ind.; Ed. Norris, treasurer Tribe of Ben Hur, of Indianapolis, Ind.; the Farmers' Guide, of Huntingdon, Ind.; the Agricultural Epitomist, of Spencer, Ind.; the Apperson Bros. Auto Co., of Kokomo, Ind.; the Ward Fence Co., of Decatur, Ind.; the Modern Priscilla Publishing Co., of Boston, Mass.; William H. Rankin, vice president of the Mahon Advertising Co., of Chicago, Ill.; A. L. Haddon, of Terre Haute, Ind.; J. A. Everitt, editor of the Up-to-Date Farmer, of Indianapolis, Ind.; the Leader Printing Co., of New York City, N. Y.; the Christian Herald, of New York City, N. Y.; Havens & Geddes Co., of Indianapolis, Ind.; B. Morgan Shepherd, president of the Agricultural Press League, of Richmond, Va.; the Standard Metal Co., of Indianapolis, Ind.; James R. Rose & Co., of Indianapolis, Ind.; the Mooney-Mueller Drug Co., of Indianapolis, Ind.; Smith & Butterfield Co., of Evansville, Ind.; W. V. McCormick, of Crawfordsville, Ind.; Ketselman Bros., of Muncie, Ind.; Richard W. Knott, editor of the Evening Post and Home and Farm, of Louisville, Ky.

Mr. OVERMAN. I present certain telegrams of leading citizens and manufacturers of North Carolina protesting against the passage of the antiopion cotton bill. I ask that the first telegram which consists of only a few words may be read and that the names attached to the others be printed in the Record.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the telegram will be read.

The telegram was read and referred to the Committee on Interstate Commerce, as follows:

WILSON, N. C., February 16, 1911.

Hon. LEE S. OVERMAN,  
United States Senator, Washington, D. C.:

Scott bill detrimental cotton interest South. Would appreciate your appearing before committee in opposition to the bill.

W. S. HARRISS.  
HADLEY HARRISS & CO.  
P. L. WOODWARD & CO.  
F. S. DAVIS.  
W. M. FARMER.

Mr. OVERMAN presented telegrams, in the nature of memorials, from Thomas Crabtree, of Greensboro; Woodlows Manufacturing Co., Armon Manufacturing Co., and Nims Manufacturing Co., of Mount Holly; Gem Yarn Mills, of Cornelius; W. C. Heath, of Monroe; German American Co., of Spray; The Cons Co., of Spray; J. A. Taylor, William Elworth, M. J. Corbett, and J. H. Brown, of Wilmington; Alex Sprunt & Sons, of Wilmington; C. B. Bryant, of Charlotte; Hedgpath & Rucker, of Greensboro; W. L. Hall, of Greenville; T. F. Jones, of Wadesboro; J. S. Carr, A. H. Boyden, and C. B. Barber, of Raleigh; J. H. Cutter & Co., of Charlotte; and Boyden Overman Co., of Salisbury, all in the State of North Carolina, and C. S. Webb, of Greenville, S. C., remonstrating against the passage of the so-called Scott antiopion bill relative to dealing in cotton futures, which were referred to the Committee on Interstate Commerce.

Mr. BURROWS presented a petition of sundry citizens of Kalamazoo, Mich., praying for the adoption of an amendment to the Constitution of the United States providing for the election of United States Senators by popular vote, which was ordered to lie on the table.

Mr. GALLINGER presented memorials of George W. Russell, of Atkinson; of James C. Pipe, of Stratham; of M. A. Meader and G. T. Kimball, of North Haverhill; of J. W. Sanborn, of Pittsfield; of Friendship Grange, Patrons of Husbandry; and of Fruitdale Grange, No. 106, Patrons of Husbandry, all in the State of New Hampshire, remonstrating against the ratification of the proposed reciprocal agreement between the United States and Canada, which were referred to the Committee on Finance.

Mr. BULKELEY presented memorials of Local Grange of Trumbull; of Housatonic Grange; and of Fairfield County Pomona Grange, all of the Patrons of Husbandry, in the State

of Connecticut, remonstrating against the ratification of the proposed reciprocal agreement between the United States and Canada, which were referred to the Committee on Finance.

He also presented a petition of Local Union No. 79, United Brotherhood of Carpenters and Joiners, of New Haven, Conn., praying for the enactment of legislation to further restrict immigration, which was referred to the Committee on Immigration.

He also presented petitions of Wolf Den Grange, of Pomfret; of Norfield Grange, of Weston; of Housatonic Grange; of Local Grange of Trumbull; of Highland Grange; of Local Grange of East Lyme; of Unity Grange; and of Harmony Grange, all of the Patrons of Husbandry, in the State of Connecticut, praying for the passage of the so-called parcels-post bill, which were referred to the Committee on Post Offices and Post Roads.

Mr. BRISTOW presented memorials of Madison Grange, of Greenwood County; of Local Grange, of Linwood; of Local Grange, of Stanley; and of Local Grange, of Eudora, all of the Patrons of Husbandry, in the State of Kansas, remonstrating against the ratification of the proposed reciprocal agreement between the United States and Canada, which were referred to the Committee on Finance.

He also presented an affidavit in support of the bill (S. 10398) granting an increase of pension to Samuel C. Whitwam, which was referred to the Committee on Pensions.

He also presented an affidavit in support of the bill (S. 9989) granting an increase of pension to Darius Wells, which was referred to the Committee on Pensions.

He also presented sundry papers to accompany the bill (S. 9989) granting an increase of pension to Darius Wells, which were referred to the Committee on Pensions.

Mr. SHIVELY presented telegrams in the nature of petitions from the American Metal Co., of Indianapolis; the Indianapolis Saddlery, of Indianapolis; the Mooney-Mueller Drug Co., of Indianapolis; the Trotter Henry Co., of Indianapolis; the American Valve Co., of Indianapolis; of G. A. Schnull, of Indianapolis; the Standard Metal Co., of Indianapolis; of James R. Ross & Co., of Indianapolis; the Havens & Geddes Co., of Indianapolis; the Indianapolis Book & Stationery Co., of Indianapolis; and of William Fogarty, of Indianapolis, all in the State of Indiana, praying that an increase be made in the rate of postage on periodicals and magazines, which were ordered to lie on the table.

He also presented telegrams, in the nature of memorials, of the Apperson Bros. Auto Co., of Kokomo; of Elkin Wallick, of Indianapolis; of Juliett V. Strouse, of Terre Haute; of J. A. Everitt, editor Up-to-Date Farmer, of Indianapolis; of Ed. Norris, treasurer Tribe of Ben Hur, of Indianapolis; of the Climax Coffee & Baking Powder Co., of Indianapolis; the National Press Association, of Indianapolis; the Adsell League, of South Bend; of A. M. Reed, of Muncie; of the Crawfordsville Typographical Union, of Crawfordsville, all in the State of Indiana; of Leo Rae Axtell, of New Orleans, La.; of the Priscilla Publishing Co., of Boston, Mass., and of Norman E. Mack, of Buffalo, N. Y., remonstrating against any increase being made in the rate of postage on periodicals and magazines, which were ordered to lie on the table.

He also presented telegrams, in the nature of memorials, of Finley Baker, of La Fayette; of George J. Marott, of Indianapolis; of R. J. Scholz, of Indianapolis; of H. T. Montgomery, A. R. Bates, D. P. Moore, and R. Z. Snell, of South Bend, all in the State of Indiana, remonstrating against the passage of the so-called Scott antiopion bill, relative to dealing in cotton futures, which were referred to the Committee on Interstate Commerce.

He also presented memorials of D. G. Stager, secretary of the International Printing Pressmen and Assistants' Union, No. 19, of Fort Wayne; of Harrold E. Schaible, newspaper agent, of La Fayette; of Ketselman Bros., of Muncie; of George W. Duke, secretary of the Commercial Club, of Kokomo; of the Farmers' Guide, of Huntington; of C. S. Houghland, counselor Indiana State Medical Society, of Milroy; of A. L. Haddon, of Terre Haute; of George A. Ryan, editor of Western Horseman, of Indianapolis; of the Ward Fence Co., of Decatur; of the C. J. Lindsay News Co., of Indianapolis; and of the United Motor Indianapolis Co., of Indianapolis, all in the State of Indiana, and of the Chicago Examiner, of Chicago, Ill., remonstrating against any increase being made in the rate of postage on magazines and periodicals, which were ordered to lie on the table.

He also presented a memorial of the directors of the Milk Producers' Association, of Chicago, Ill., and a memorial of the Milk Producers' Association adopted at its annual meeting at Chicago, Ill., February 6, 1911, remonstrating against the ratification of the proposed reciprocal agreement between the United States and Canada, which were referred to the Committee on Finance.



He also presented a telegram, in the nature of a petition, from A. Kiefer Drug Co., of Indianapolis, Ind., praying that an increase be made in the rate of postage on periodicals and magazines, which was ordered to lie on the table.

He also presented a petition of Local Union No. 1317, United Brotherhood of Carpenters and Joiners of America, of Indiana Harbor, Ind., praying for the enactment of legislation to further restrict immigration, which was referred to the Committee on Immigration.

Mr. FRYE presented memorials of Local Grange, of Lime-stone; Aroostook-Pomona Grange, of Aroostook County; Good-will Grange, of Amherst; Local Grange, of Winthrop, all of the Patrons of Husbandry; of M. Irwin, superintendent of the local mill of the International Paper Company, of Solon; and of sundry citizens of Livermore Falls and Chisholm, all in the State of Maine, remonstrating against the ratification of the proposed reciprocal agreement between the United States and Canada, which were referred to the Committee on Finance.

Mr. JONES. I present a joint memorial of the Legislature of the State of Idaho, which I ask may be printed in the RECORD and referred to the Committee on Military Affairs.

There being no objection, the joint memorial was referred to the Committee on Military Affairs and ordered to be printed in the RECORD, as follows:

House joint memorial No. 3.

*To the honorable the Senators and Representatives of the United States in Congress assembled:*

Your memorialist, the Legislature of the State of Idaho, prays that the land and buildings comprising the Fort Walla Walla Military Reservation and barracks may be granted to Whitman College. The reasons deemed sufficient to justify this memorial are set forth in the following statement:

The War Department has determined that the military service does not require the maintenance of a military post at Fort Walla Walla, and the troops have been withdrawn, except a few necessary caretakers, so that in future the preservation of the property will be a burden upon the Government, without any compensating benefit.

The property is, by reason of its situation and character, adapted to the needs of Whitman College; its use by the college will be the best use to which it can be devoted, and the Nation will derive the greatest benefit from the property by intrusting it to an institution in every way worthy and capable of using it in the cause of higher education.

There is within the boundaries of the reservation a soldiers' cemetery, containing the graves of a number of men who died while in the military service of the United States. This cemetery has been well kept by the officers and soldiers heretofore stationed at Fort Walla Walla, and if the prayer of your memorialist shall be granted the trustees of Whitman College will assume an obligation to so care for this soldiers' cemetery as to show perpetually the respect due to our country's defenders.

Texas and Hawaii became annexed to the United States without contributing anything to the wealth of the Nation as a land proprietor, and other acquisitions of territory, except the Oregon country, were purchased and paid for out of the National Treasury, but more than 300,000 square miles of country, comprising the States of Oregon, Washington, Idaho, and parts of Montana and Wyoming, became part of our national domain through the instrumentality of patriotic pioneers, of whom Dr. Marcus Whitman was a type and a leader. They penetrated the wilderness and wrested that country, with its wealth of land, forests, mines, waters, and fisheries, from the grasp of a foreign corporation, and held it until the growth of the public sentiment forced the Government to bring to a conclusion the diplomatic controversy with respect to its ownership by the treaty with Great Britain of 1846, whereby the American title was finally recognized and established.

The scene of one of the tragedies of American history is in the immediate vicinity of Fort Walla Walla. There a monument commemorates the lives of Dr. Whitman and his wife and a dozen of their associates, part of the vanguard of American civilization who were massacred by the aboriginal inhabitants. Our Nation loves to honor those whose names illuminate the pages of its history. For that purpose the Government has willingly expended liberal appropriations in payment for statuary, monuments, and paintings produced by the most talented artists of the world, and the granting of Fort Walla Walla as a contribution to the college founded by an intimate friend and coworker of Dr. Whitman to honor his memory, and which has appealed to the sentiment of public-spirited, patriotic citizens, bringing responses in liberal contributions to its endowment, will be heartily approved by the people at large. In return for the national aggrandizement resulting directly from the exertion, privations, and sacrifices of the Oregon pioneers, the Nation can well afford to bestow one section of land and the buildings which it does not require for use as a gift to an institution of learning which the people of the three Northwestern States have adopted as an object of their solicitude and pride.

Whitman College is a privately endowed, nonsectarian, Christian college, intended to supply the need of those States for such an institution of higher education. It commands the respect and has the earnest sympathy of learned people and good people in every section of the United States, and its destiny is to grow in importance as the country surrounding it shall advance in all the ways that mark the development of arts and sciences. No more fitting monument has been erected, not to a worthier man.

The State of Washington and its citizens have paid for and donated to the United States the land comprised within two military posts, viz, Fort Lawton, near Seattle, and Fort Wright, near Spokane, each including more than 1,000 acres. These lands were purchased after they became valuable and after they had been selected for military use, and the acquisition thereof for the use of the Government involved labor and patience on the part of the public-spirited citizens in soliciting contributions of land and money and in overcoming objections of owners, and their present value is many times greater than the highest estimate of the value of Fort Walla Walla.

Therefore your said memorialist earnestly recommends the passage of the said resolution, and represents that the State of Idaho desires the

granting of the land and buildings of the said Fort Walla Walla Military Reserve be made to Whitman College.

This memorial passed the house of representatives on the 23d day of January, 1911.

CHARLES D. STOREY,  
Speaker of the House of Representatives.

This memorial passed the senate on the 24th day of January, 1911.

L. H. SWEETSER,  
President of the Senate.

This memorial received by the governor on the 25th day of January, 1911, at 11:20 o'clock, and approved on the 25th day of January, 1911.

JAMES H. HAWLEY, Governor.

I hereby certify that the within house joint memorial No. 3 originated in the House of Representatives of the Legislature of the State of Idaho during the eleventh session.

JAMES H. WALLIS,  
Chief Clerk of the House of Representatives.

STATE OF IDAHO,  
DEPARTMENT OF STATE.

I, W. L. Gifford, secretary of state of the State of Idaho, do hereby certify that the annexed is a full, true, and complete transcript of house joint memorial No. 3, by Black and Galloway, recommending the passage of a resolution granting what is known as Fort Walla Walla Military Reserve and buildings thereon to Whitman College, in the State of Washington (passed the house January 23, 1911; passed the senate January 24, 1911), which was filed in this office the 25th day of January, A. D. 1911, and admitted to record.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State.

Done at Boise City, the capital of Idaho, this 26th day of January, A. D. 1911.

W. L. GIFFORD, Secretary of State.

Mr. JONES. I present a joint memorial of the Legislature of the State of Oregon, which I ask may be printed in the RECORD and referred to the Committee on Military Affairs.

There being no objection, the joint memorial was referred to the Committee on Military Affairs and ordered to be printed in the RECORD, as follows:

Joint memorial, praying that a grant of the land and buildings of the Fort Walla Walla Military Reservation be made to Whitman College.

*To the President and Congress of the United States of America:*

Your memorialist, the Legislature of the State of Oregon, prays that the land and buildings comprising the Fort Walla Walla Military Reservation and barracks may be granted to Whitman College. The reasons deemed sufficient to justify this memorial are set forth in the following statement:

The War Department has determined that the military service does not require the maintenance of a military post at Fort Walla Walla, and the troops have been withdrawn except a few necessary caretakers, so that in future the preservation of the property will be a burden upon the Government without any compensating benefit.

The property is, by reason of its situation and character, adapted to the needs of Whitman College; its use by the college will be the best use to which it can be devoted, and the Nation will derive the greatest benefit from the property by intrusting it to an institution in every way worthy and capable of using it in the cause of higher education.

There is within the boundaries of the reservation a soldiers' cemetery, containing the graves of a number of men who died while in the military service of the United States. This cemetery has been well kept by the officers and soldiers heretofore stationed at Fort Walla Walla, and if the prayer of your memorialist shall be granted the trustees of Whitman College will assume an obligation to so care for this soldiers' cemetery as to show perpetually the respect due to our country's defenders.

Texas and Hawaii became annexed to the United States without contributing anything to the wealth of the Nation as a land proprietor, and other acquisitions of territory, except the Oregon country, were purchased and paid for out of the National Treasury, but more than 300,000 square miles of country, comprising the States of Oregon, Washington, Idaho, and parts of Montana and Wyoming, became part of our national domain through the instrumentality of patriotic pioneers, of whom Dr. Marcus Whitman was a type and a leader. They penetrated the wilderness and wrested that country, with its wealth of land, forests, mines, waters, and fisheries, from the grasp of a foreign corporation and held it until the growth of public sentiment forced the Government to bring to a conclusion the diplomatic controversy with respect to its ownership by the treaty with Great Britain of 1846, whereby the American title was finally recognized and established.

The scene of one of the tragedies of American history is in the immediate vicinity of Fort Walla Walla. There a monument commemorates the lives of Dr. Whitman and his wife and a dozen of their associates, part of the vanguard of American civilization who were massacred by the aboriginal inhabitants. Our Nation loves to honor those whose names illuminate the pages of its history. For that purpose the Government has willingly expended liberal appropriations in payment for statuary, monuments, and paintings produced by the most talented artists of the world, and the granting of Fort Walla Walla as a contribution to the college founded by an intimate friend and coworker of Dr. Whitman to honor his memory, and which has appealed to the sentiment of public-spirited, patriotic citizens, bring responses in liberal contributions to its endowment, will be heartily approved by the people at large. In return for the national aggrandizement, resulting directly from the exertion, privations, and sacrifices of the Oregon pioneers, the Nation can well afford to bestow one section of land, and the buildings which it does not require for use, as a gift to an institution of learning which the people of the three Northwestern States have adopted as an object of their solicitude and pride.

Whitman College is a privately endowed, nonsectarian, Christian college, intended to supply the need of those States for such an institution of higher education. It commands the respect and has the earnest sympathy of learned people and good people in every section of the United States, and its destiny is to grow in importance as the country surrounding it shall advance in all the ways that mark the development of arts and sciences. No more fitting monument has been erected nor to a worthier man.

The State of Washington and its citizens have paid for and donated to the United States the land comprised within two military posts, viz,

Fort Lawton, near Seattle, and Fort Wright, near Spokane, each including more than 1,000 acres. These lands were purchased after they had become valuable and after they had been selected for military use, and the acquisition thereof for the use of the Government involved labor and patience on the part of public-spirited citizens in soliciting contributions of land and money and in overcoming objections of owners, and their present value is many times greater than the highest estimate of the value of Fort Walla Walla.

Adopted by the house January 23, 1911.

JOHN P. RUSK, *Speaker of the House.*

Concurred in by the senate February 1, 1911.

BEN SELLING, *President of the Senate.*

Indorsed: House joint memorial No. 4.

W. F. DRAGER, *Chief Clerk.*

Filed February 2, 1911.

F. W. BENSON, *Secretary of State.*

STATE OF OREGON.  
OFFICE OF THE SECRETARY OF STATE.

I, F. W. Benson, secretary of state of the State of Oregon, and custodian of the seal of said State, do hereby certify:

That I have carefully compared the annexed copy of house joint memorial No. 4 with the original thereof, which was adopted by the house January 23, 1911, and concurred in by the senate February 1, 1911, together with the indorsements thereon, as filed in the office of the secretary of state of the State of Oregon February 2, 1911; and that it is a correct transcript therefrom and of the whole of such original.

In testimony whereof, I have hereunto set my hand and affixed hereto the seal of the State of Oregon.

Done at the capitol at Salem, Oreg., this 3d day of February, A. D. 1911.

[SEAL.]

F. W. BENSON, *Secretary of State.*

Mr. JONES. I present a memorial of the Legislature of the State of Washington, which I ask may be printed in the RECORD and referred to the Committee on Military Affairs.

There being no objection, the memorial was referred to the Committee on Military Affairs and ordered to be printed in the RECORD, as follows:

Memorial praying that a grant of the land and buildings of the Fort Walla Walla Military Reservation be made to Whitman College.

To the President and Congress of the United States of America:

Your memorialist, the Legislature of the State of Washington, prays that the land and buildings comprising the Fort Walla Walla Military Reservation and Barracks may be granted to Whitman College. The reasons deemed sufficient to justify this memorial are set forth in the following statement:

The War Department has determined that the military service does not require the maintenance of a military post at Fort Walla Walla, and the troops have been withdrawn except a few necessary caretakers, so that in future the preservation of the property will be a burden upon the Government without any compensating benefit.

The property is, by reason of its situation and character, adapted to the needs of Whitman College, its use by the college will be the best use to which it can be devoted, and the Nation will derive the greatest benefit from the property by intrusting it to an institution in every way worthy and capable of using it in the cause of higher education.

There is within the boundaries of the reservation a soldiers' cemetery containing the graves of a number of men who died while in the military service of the United States. This cemetery has been well kept by the officers and soldiers heretofore stationed at Fort Walla Walla, and if the prayer of your memorialist shall be granted the trustees of Whitman College will assume an obligation to so care for this soldiers' cemetery as to show, perpetually, the respect due to our country's defenders.

Texas and Hawaii became annexed to the United States without contributing anything to the wealth of the Nation as a land proprietor, and other acquisitions of territory, except the Oregon country, were purchased and paid for out of the National Treasury, but more than 300,000 square miles of country, comprising the States of Oregon, Washington, Idaho, and parts of Montana and Wyoming became part of our national domain through the instrumentality of patriotic pioneers, of whom Dr. Marcus Whitman was a type and a leader. They penetrated the wilderness and wrested that country with its wealth of land, forests, mines, waters, and fisheries from the grasp of a foreign corporation and held it until the growth of public sentiment forced the Government to bring to a conclusion the diplomatic controversy with respect to its ownership by the treaty with Great Britain of 1846, whereby the American title was finally recognized and established.

The scene of one of the tragedies of American history is in the immediate vicinity of Fort Walla Walla. There a monument commemorates the lives of Dr. Whitman and his wife and a dozen of their associates, part of the vanguard of American civilization, who were massacred by the aboriginal inhabitants. Our Nation loves to honor those whose names illuminate the pages of its history. For that purpose the Government has willingly expended liberal appropriations in payment for statuary, monuments, and paintings produced by the most talented artists of the world, and the granting of Fort Walla Walla as a contribution to the college founded by an intimate friend of Whitman to honor his memory, and which has appealed to the sentiment of public-spirited, patriotic citizens, bringing responses in liberal contributions to its endowment, will be heartily approved by the people at large. In return for the national aggrandizement resulting directly from the exertion, privations, and sacrifices of the Oregon pioneers, the Nation can well afford to bestow one section of land and the buildings which it does not require for use as a gift to an institution of learning which the people of the three Northwestern States have adopted as an object of their solicitude and pride.

Whitman College is a privately endowed, nonsectarian Christian college intended to supply the need of those States for such an institution of higher education. It commands the respect and has the earnest sympathy of learned people and good people in every section of the United States, and its destiny is to grow in importance, as the country surrounding it shall advance in all the ways that mark the development of arts and sciences.

The State of Washington and its citizens have paid for and donated to the United States the land comprised within two military posts, viz,

Fort Lawton, near Seattle, and Fort Wright, near Spokane, each including more than 1,000 acres. These lands were purchased after they had become valuable and after they had been selected for military use, and the acquisition thereof for the use of the Government involved labor and patience on the part of public-spirited citizens in soliciting contributions of land and money and in overcoming objections of owners, and their present value is many times greater than the highest estimate of the value of Fort Walla Walla.

Mr. JONES presented a memorial of sundry citizens of Everett, Wash., remonstrating against the establishment of the proposed Department of Health, which was referred to the Committee on Public Health and National Quarantine.

He also presented a petition of sundry citizens of North Yakima, Wash., praying that an investigation be made into the affairs of the wireless telegraph companies of the country, which was referred to the Committee on Interstate Commerce.

Mr. ROOT. I present a resolution adopted by the Senate of the Legislature of the State of New York, which I ask may be printed in the RECORD and referred to the Committee on Post Offices and Post Roads.

There being no objection, the resolution was referred to the Committee on Post Offices and Post Roads and ordered to be printed in the RECORD, as follows:

STATE OF NEW YORK, IN SENATE.

Albany, February 6, 1911.

Whereas the present limitations upon the size and weight of articles which may be carried by the United States mails do not accord with the progressive policies of other countries on this subject; and

Whereas a general extension of the parcels-post system so as to increase the size and weight of the articles which may be so carried will greatly promote the convenience of the public;

Resolved (if the assembly concur), That the legislature respectfully requests the Senators and Representatives in the Congress of the United States to effect the passage of a law at the present session extending the parcels-post system accordingly.

By order of the senate.

PATRICK E. MCCABE, *Clerk.*

In assembly, February 14, 1911. Concurred in without amendment.  
By order of the assembly.

LUKE MCHENRY, *Clerk.*

Mr. SCOTT presented a memorial of sundry citizens of Chester, W. Va., remonstrating against the enactment of legislation providing for an increase in the rate of postage on periodicals and magazines, which was ordered to lie on the table.

Mr. WETMORE presented a petition of Rhode Island Lodge, No. 147, International Association of Machinists, of Providence, R. I., and a petition of Commodore Perry Council, No. 14, Junior Order United American Mechanics, of Wakefield, R. I., praying for the enactment of legislation to further restrict immigration, which were referred to the Committee on Immigration.

Mr. DEPEW presented petitions of the Republican League of Clubs of the State of New York, the Buffalo Lumber Exchange, the North Buffalo Residents and Business Men's Association, the Master Plumbers' Association of Buffalo, and the Brewmasters' Association of Buffalo, of the Common Council of the city of Oswego, the North Tonawanda Board of Trade, the Kingston Chamber of Commerce, the French and Canadian Democratic Association of Greater New York, and sundry citizens of Watertown and New York City, all in the State of New York, praying for the ratification of the proposed reciprocal agreement between the United States and Canada, which were referred to the Committee on Finance.

He also presented memorials of Wallkill River Grange, No. 983; Carthage Grange; Cambridge Valley Grange, No. 1090; Wharton Valley Grange, No. 991; Wadhams Mills Grange; Stockton Grange, No. 316; Kendrew Grange, No. 891; Chester Grange, No. 984; Dryden Grange, No. 1112; La Fargeville Grange, No. 15; Grange No. 576 of East Schuyler; Palmyra Grange, No. 123; Richfield Grange, No. 771; Minaville Grange, No. 668; Mallonsburg Grange, No. 954; Knowlesville Grange, No. 1124; Gouverneur Grange, No. 303; Nicholville Grange, No. 797; Bombay Grange, No. 924; Marion Grange, No. 214; Mansfield Grange, No. 1030; Poughkeepsie Grange, No. 839; Indian River Grange, No. 19; Sennett Grange, No. 1054; Chester Grange, No. 984; Minisink Grange, No. 907; Mandana Grange, No. 917; East Fayette Grange, No. 40; Lorraine Grange, No. 117; Stephens Mills Grange, No. 308; Villanova Grange, No. 604; Waterport Grange, No. 1059; and Gates Grange, No. 421, all of the Patrons of Husbandry; of the St. Lawrence County Board of Trade, the Gouverneur Dairy Board of Trade, and of sundry citizens of Rushville, Three Mile Bay, New York City, Morrisville, Niagara Falls, Peconic, Wadhams, East Aurora, Albany, and Munsville, all in the State of New York, remonstrating against the ratification of the proposed reciprocal agreement between the United States and Canada, which were referred to the Committee on Finance.

Mr. BOURNE. I present a joint memorial of the Legislature of the State of Oregon, which I ask may be printed in the RECORD and referred to the Committee on Military Affairs.



There being no objection, the joint memorial was referred to the Committee on Military Affairs and ordered to be printed in the RECORD, as follows:

Joint memorial praying that a grant of the land and buildings of the Fort Walla Walla Military Reservation be made to Whitman College.

*To the President and Congress of the United States of America:*

Your memorialist, the Legislature of the State of Oregon, prays that the land and buildings comprising the Fort Walla Walla Military Reservation and barracks may be granted to Whitman College. The reasons deemed sufficient to justify this memorial are set forth in the following statement:

The War Department has determined that the military service does not require the maintenance of a military post at Fort Walla Walla, and the troops have been withdrawn except a few necessary caretakers, so that in future the preservation of the property will be a burden upon the Government, without any compensating benefit.

The property is, by reason of its situation and character, adapted to the needs of Whitman College; its use by the college will be the best use to which it can be devoted, and the Nation will derive the greatest benefit from the property by intrusting it to an institution in every way worthy and capable of using it in the cause of higher education.

There is within the boundaries of the reservation a soldiers' cemetery, containing the graves of a number of men who died while in the military service of the United States. This cemetery has been well kept by the officers and soldiers heretofore stationed at Fort Walla Walla, and if the prayer of your memorialist shall be granted, the trustees of Whitman College will assume an obligation to so care for this soldiers' cemetery as to show, perpetually, the respect due to our country's defenders.

Texas and Hawaii became annexed to the United States without contributing anything to the wealth of the Nation as a land proprietor, and other acquisitions of territory, except the Oregon country, were purchased and paid for out of the National Treasury, but more than 300,000 square miles of country, comprising the States of Oregon, Washington, Idaho, and parts of Montana and Wyoming, became part of our national domain through the instrumentality of patriotic pioneers, of whom Dr. Marcus Whitman was a type and a leader. They penetrated the wilderness and wrested that country, with its wealth of land, forests, mines, waters, and fisheries, from the grasp of a foreign corporation and held it until the growth of public sentiment forced the Government to bring to a conclusion the diplomatic controversy, with respect to its ownership, by the treaty with Great Britain of 1846, whereby the American title was finally recognized and established.

The scene of one of the tragedies of American history is in the immediate vicinity of Fort Walla Walla. There a monument commemorates the lives of Dr. Whitman and his wife and a dozen of their associates, part of the vanguard of American civilization who were massacred by the aboriginal inhabitants. Our Nation loves to honor those whose names illuminate the pages of its history. For that purpose the Government has willingly expended liberal appropriations in payment for statuary, monuments, and paintings produced by the most talented artists of the world, and the granting of Fort Walla Walla as a contribution to the college founded by an intimate friend and coworker of Dr. Whitman to honor his memory, and which has appealed to the sentiment of public-spirited, patriotic citizens, bringing responses in liberal contributions to its endowment, will be heartily approved by the people at large. In return for the national aggrandizement resulting directly from the exertion, privations, and sacrifices of the Oregon pioneers, the Nation can well afford to bestow one section of land and the buildings which it does not require for use as a gift to an institution of learning which the people of the three Northwestern States have adopted as an object of their solicitude and pride.

Whitman College is a privately endowed, nonsectarian, Christian college, intended to supply the need of those States for such an institution of higher education. It commands the respect and has the earnest sympathy of learned people and good people in every section of the United States, and its destiny is to grow in importance as the country surrounding it shall advance in all the ways that mark the development of arts and sciences. No more fitting monument has been erected, nor to a worthier man.

The State of Washington and its citizens have paid for and donated to the United States the land comprised within two military posts, viz, Fort Lawton, near Seattle, and Fort Wright, near Spokane, each including more than 1,000 acres. These lands were purchased after they had become valuable and after they had been selected for military use, and the acquisition thereof for the use of the Government involved labor and patience on the part of public-spirited citizens in soliciting contributions of land and money and in overcoming objections of owners, and their present value is many times greater than the highest estimate of the value of Fort Walla Walla.

Adopted by the house January 23, 1911.

JOHN P. RUSK, *Speaker of the House.*

Concurred in by the senate February 1, 1911.

BEN SELLING, *President of the Senate.*

STATE OF OREGON,  
OFFICE OF THE SECRETARY OF STATE.

I, F. W. Benson, secretary of state of the State of Oregon, and custodian of the seal of said State, do hereby certify that I have carefully compared the annexed copy of house joint memorial No. 4 with the original thereof, which was adopted by the house January 23, 1911, and concurred in by the senate February 1, 1911, and that it is a correct transcript therefrom and of the whole of such original.

In testimony whereof I have hereunto set my hand and affixed hereto the seal of the State of Oregon.

Done at the capitol at Salem, Oreg., this 4th day of February, A. D. 1911.

F. W. BENSON, *Secretary of State.*

Mr. OLIVER. I present a concurrent resolution of the General Assembly of the State of Pennsylvania, asking for the passage of the Sulloway pension bill. I ask that it may lie on the table and be printed in the RECORD.

Mr. CULBERSON. I suggest that being the resolution of a legislature of a State it ought to be read.

Mr. OLIVER. I ask that it be read.

There being no objection, the resolution was read and ordered to lie on the table, as follows:

IN THE SENATE, February 14, 1911.

Whereas House bill No. 29346, known as the Sulloway bill, granting pensions to certain enlisted men, soldiers, sailors, and officers, who served in the War of the Rebellion and the War with Mexico, has passed the House of Representatives in the Congress of the United States and is now pending in the Senate: Therefore be it

*Resolved (if the house of representatives concur),* That we heartily indorse all of the provisions of said bill, and respectfully request our Senators in Congress to vote for and use every honorable means to secure its passage by the Senate of the United States just as it passed the House of Representatives, without alteration or amendment as to benefits provided.

*Resolved,* That the secretary of the Commonwealth be authorized to send a certified copy of the foregoing preamble and resolution to Hon. BOIES PENROSE and Hon. GEORGE T. OLIVER, Senators from Pennsylvania in the Congress of the United States.

Approved, the 15th day of February, A. D. 1911.

JOHN K. TENER.

COMMONWEALTH OF PENNSYLVANIA,  
OFFICE OF THE SECRETARY,  
Harrisburg, February 16, 1911.

PENNSYLVANIA, ss:

I do hereby certify that the foregoing and annexed is a full, true, and correct copy of concurrent resolution No. 11 of the general assembly, approved February 15, 1911, as the same remains on file and appears of record in this office.

In testimony whereof I have hereunto set my hand and caused the seal of the secretary's office to be affixed the day and year above written.

ROBERT MCAFEE,  
*Secretary of the Commonwealth.*

Mr. GORE. I present a concurrent resolution of the Legislature of the State of Oklahoma, which I ask may be printed in the RECORD and referred to the Committee on Indian Affairs.

There being no objection, the concurrent resolution was referred to the Committee on Indian Affairs and ordered to be printed in the RECORD, as follows:

Senate concurrent resolution No. 17.

A resolution memorializing Congress to pass an act providing for the sale of the coal and asphalt lands of the Choctaw and Chickasaw Nations.

Whereas there has been introduced in the Congress of the United States a bill providing for the sale of the segregated coal and asphalt lands of the Choctaw and Chickasaw Nations; and

Whereas said bill has been drafted and agreed upon by all interests affected, Indians and white people alike, thereby removing the objections to said legislation that have heretofore existed, and all interest affected is now urging its passage—the Indians because it will carry out the solemn treaty stipulations contained in the supplementary agreement of 1902 for the sale of their coal and asphalt lands and the distribution per capita of the proceeds, and the white people because it would result in the development and taxation of a large area of land now wholly undeveloped and untaxable, thereby lightening the burden of taxation and resulting in great good to the whole people of the State of Oklahoma: Therefore be it

*Resolved by the senate (the house of representatives concurring therein),* That the Congress of the United States be, and the same is hereby, memorialized to pass an act at the present session of Congress that will result in the early sales of the segregated coal and asphalt lands of the Choctaw and Chickasaw Nations and the distribution of the proceeds per capita among the Indians.

*Resolved,* That a copy of this resolution be forwarded to Hon. T. P. GORE and the Hon. ROBERT L. OWEN and to the Members of Congress of Oklahoma, and that they be requested to present the same to Congress.

Passed by the senate February 6, 1911.

J. ELMER THOMAS,  
*President pro tempore of the Senate.*

Passed by the house of representatives February 6, 1911.

W. A. DURANT,  
*Speaker of the House of Representatives.*

Mr. BURNHAM presented memorials of Friendship Grange, No. 110, of Northfield; Fruitdale Grange, No. 106, of Mason; Carroll Grange, No. 160, of Ossipee; Local Grange No. 93, of Campton; Miller Grange, No. 34, of Temple; and Local Mountain Grange, No. 130, of Ossipee, all of the Patrons of Husbandry, in the State of New Hampshire, and of the Cooperative Milk Producers' Co. and the Home Market Club, of Boston, Mass., remonstrating against the ratification of the proposed reciprocal agreement between the United States and Canada, which were referred to the Committee on Finance.

Mr. RAYNER presented petitions of Washington Camp, No. 60, Patriotic Order Sons of America, of Boonsboro; of Banner Council, No. 43, of Keedysville; and of Local Council of Chester, Junior Order United American Mechanics, all in the State of Maryland, praying for the enactment of legislation to further restrict immigration, which were referred to the Committee on Immigration.

He also presented resolutions adopted by the National Cannermen's Association, in convention at Milwaukee, Wis., favoring the ratification of the proposed reciprocal agreement between the United States and Canada, which were referred to the Committee on Finance.

He also presented memorials of sundry citizens of Maryland, remonstrating against the ratification of the proposed reciprocal agreement between the United States and Canada, which were referred to the Committee on Finance.

Mr. OWEN presented petitions of the Board of Trade and Merchants' Association of Fitchburg, Mass.; of the Chamber of Commerce of Allentown, Pa.; of the Chamber of Commerce of Oakland, Cal.; of the Merchants' Association and Chamber of Commerce of Altoona, Pa.; of the Chamber of Commerce of San Jose, Cal.; of the Board of Trade of Worcester, Mass.; of the Chamber of Commerce of Merced, Cal.; of the Board of Trade of Pasadena, Cal.; of the Board of Trade of Indianapolis, Ind.; of the Board of Trade of Richmond Hill, New York City, N. Y.; and of the Committee of One Hundred on National Health of New York City, N. Y., praying for the establishment of a national department of health, which were referred to the Committee on Public Health and National Quarantine.

Mr. KEAN presented a petition of Gaddon Grange, No. 38, Patrons of Husbandry, of Haddonfield, N. J., and a petition of Local Grange No. 29, Patrons of Husbandry, of Elmer, N. J., praying for the ratification of the proposed reciprocal agreement between the United States and Canada, which were referred to the Committee on Finance.

He also presented memorials of Local Grange No. 153, of Raritan; of Local Grange No. 51, of Mullica Hill; of Local Grange No. 184, of Plainsboro; and of Local Grange No. 88, of Locktown, all of the Patrons of Husbandry, in the State of New Jersey, remonstrating against the ratification of the proposed reciprocal agreement between the United States and Canada, which were referred to the Committee on Finance.

He also presented memorials of sundry citizens of Paterson, Cranford, Plainfield, Rahway, Orange, Newark, Englewood, and Tenafly, in the State of New Jersey, and of the Millville Manufacturing Co., of Philadelphia, Pa., remonstrating against the passage of the so-called Scott anti-option bill relative to dealing in cotton futures, which were referred to the Committee on Interstate Commerce.

He also presented a petition of Washington Camp No. 84, Patriotic Order Sons of America, of Gloucester City, N. J., praying for the enactment of legislation to further restrict immigration, which was referred to the Committee on Immigration.

He also presented the petition of Adam Aberle, of Union, N. J., praying for the passage of the so-called old-age pension bill, which was ordered to lie on the table.

He also presented a petition of the New Jersey Branch, National German-American Alliance, praying that an appropriation be made for the erection of a monument at Germantown, Pa., to commemorate the founding of the first permanent German settlement in America, which was referred to the Committee on the Library.

He also presented memorials of the Winthrop Press, of New York; the Civics Club of the Oranges, of Orange, N. J.; and of sundry citizens of Elizabeth, Arlington, and Montclair, in the State of New Jersey, and of sundry citizens of Brooklyn, N. Y., and Philadelphia, Pa., remonstrating against any change being made in the rate of postage on periodicals and magazines, which were referred to the Committee on Post Offices and Post Roads.

Mr. WARREN presented a petition of sundry citizens of Pennsylvania, praying for the enactment of legislation to readjust and enlarge the scope of our present parcels-post system, which was referred to the Committee on Post Offices and Post Roads.

#### POSTAGE ON MAGAZINES.

Mr. YOUNG. I present an editorial appearing in the New York Evening Journal of February 16, which presents from the publishers' standpoint in a conservative and courteous manner the publishers' side of the pending postage question. I ask that it may be printed in the RECORD in order that Senators may have an opportunity to see it. It is, seemingly, a very carefully prepared editorial.

There being no objection, the matter was ordered to lie on the table and to be printed in the RECORD, as follows:

An effort is made to increase the post-office rates on magazines from 1 cent a pound to 4 cents a pound. The increase does not affect newspapers, and is to apply only to the announcements of business men in the advertising pages. In other words, the opinions of writers, including the so-called "muck-rakers," will continue to go through the mails at 1 cent a pound. But the statements issued by business men as to their enterprises in their efforts to reach the public, promote business, give employment, and improve products will be taxed at four times the rate charged for the rest of the magazine.

It is understood that this change is urged by the President and by the Postmaster General, Mr. Hitchcock. We believe sincerely that the President's decision and that of Mr. Hitchcock are not based upon a full understanding of conditions or the inevitable result of the proposed legislation.

And we know quite positively that the opposition as expressed by magazine owners is extremely foolish in many cases, and in one case at least—that of Everybody's Magazine—is disingenuous as well as foolish.

The President has been told by Mr. Hitchcock, who acts unquestionably in good faith, that the post office of the United States loses \$60,000,000 a year by the carrying of the magazines at the present prices.

That sounds very impressive at first. But Mr. Hitchcock will admit that if to-morrow all of the magazines ceased publication absolutely and no longer went through the mails at all, the Government would be poorer than it is to-day and the post-office deficit would be bigger than it is to-day.

For if Mr. Hitchcock were to put all the magazines out of the mails he would not be able to discharge one letter carrier. He would not be able to dispense with a single mail car. He would not be able to cut down his force of clerks. In fact, he could not run the post office for \$10,000,000 a year less, to say nothing of \$60,000,000 a year less, than at present if all of the magazines were eliminated.

The machinery of the United States post office, as it stands, is necessary to the distribution of the mail, without the magazines.

There can be no question about saving \$60,000,000 on the railroad transportation of magazines carried by the post office, for the simple reason that in spite of the extortionate rates paid to railroads for services rendered to the post office, the total amount received by the railroads from the Government does not amount to \$60,000,000 all told.

Mr. Hitchcock is sincerely anxious to represent the people fairly and to give them the best results in the management of the post office. For this we give him credit, and any magazine owner, publisher, or newspaper editor who fails to give him credit is foolish as well as unjust. But Mr. Taft and Mr. Hitchcock, intelligent men, both know that it is possible to economize in ways that are extremely costly.

If, for instance, Mr. Hitchcock suddenly found himself manager of a large office building in New York City, he would discover that the elevators in such a building are run at a dead loss. If, however, he started in to make the elevator self-supporting, if he charged 1 cent a ride to the first floor, and 20 cents for a ride to the twentieth story, he could very easily make the elevators show a profit, but he would ruin the income of the office building.

In the post office the condition is somewhat the same, except that the efforts to regulate expenses and profit, as planned, would be even more disastrous than such a plan as we have suggested in connection with office-building elevators.

The advertisements that go through the mails promote business in the United States and promote the prosperity of all the people of the United States.

New businesses, such as those that have built up Battle Creek and other American cities, are based largely upon the possibilities of reaching the public through intelligent advertising.

Such advertising not only means the employment of labor on a large scale, the development of American industry, increase of comfort in the community, and increase of general prosperity, but it means also tremendous increase in the most profitable department of post-office business.

Every man who advertises successfully through the magazines compels the writing of many thousands of letters that pay 2 cents each and yield a great profit to the Government.

Mr. Hitchcock is in charge of a gigantic organization, one that involves the spending and the collecting of many tens of millions. We are convinced that careful investigation will show him that the advertising which he thinks is carried at a loss through the mails in reality far more than pays for itself by stimulating profitable business, and we suggest, respectfully, that it would be wise to ascertain exactly the real effect of this important branch of American business before taking steps to discourage it and cripple it.

It is stated in behalf of the post office authorities that they do not wish in any way to interfere with the prosperity of the legitimate magazines of high class, but that they seek to control and discourage illegitimate, dishonest publications that pretend to be organs of publicity and are in reality nothing but "catalogues."

The Post Office Department says that it is unjust to compel a merchant to pay 9 cents per pound for his catalogue and allow a man who falsely calls himself a magazine editor to mail what is nothing but a catalogue for 1 cent per pound.

This would be most just, if it were accurate. But some of the so-called catalogues are really the great trade papers. And while it is doubtless true, as has been suggested by post-office officials, that to discourage these trade papers and throw them out of the mail would add greatly to advertising in the newspapers and in the high-class magazines, no honest newspaper editor or magazine owner would want to find prosperity or increase advertising in that way.

The great trade papers of the country are absolutely essential to the business men of the country. The hardware man, the grocer, the tailor, all of the men engaged in business, are deeply interested in the particular trade papers connected with their line of work, and the news in those trade papers is as vital to them as the news of the greatest European events in the daily press.

The fact is that the circulation of business men's announcements through the mail is a most important part of the great problem of American distribution. Wide distribution of new ideas and inventions of business men is essential to the prosperity of the country.

Mr. Taft and Mr. Hitchcock would be very slow to do anything to interfere with the running of water through irrigation pipes to the lands that need irrigation.

We tell Mr. Taft and Mr. Hitchcock sincerely that what the pipes are to irrigation, magazines and the other important periodicals, including the great and legitimate trade newspapers, are to the business and to the prosperity of this country.

It is because we know that Mr. Taft and Mr. Hitchcock and the other subordinates of Mr. Taft are as sincere in this as in other matters that we feel anxious that before taking or urging any steps that would irrevocably interfere with the prosperity of a large class of citizens they inform themselves in advance and to the minutest details as to the results of such action.

In the first place, if it be true, as it undoubtedly is, that certain illegitimate, bogus publications swindle the Government and the people, masquerading as legitimate publications, why is there not intelligence enough in the Government to suppress them without suppressing and injuring legitimate concerns?

A wise farmer kills the snakes on his farm without finding it necessary to kill everything that moves, including pigs and chickens and ducks. The present post-office plan is to knock everything over the head first and then see what happens afterwards. That is not a wise plan.

Mr. Taft and Mr. Hitchcock should inform themselves as to the number of important legitimate business men who have built up large enterprises, based upon reliance on monthly magazines as selling agencies. These agencies, actual commercial travelers for these large advertisers, go into the millions of homes and tell the stories of American business men. It would not be possible in one year, or in 10 years, to establish any system of distribution, advertisement, and trade



recruiting that would take the place of these monthly distributing agents.

We hope that Mr. Taft and Mr. Hitchcock will ask themselves earnestly whether it is wise to cut off from the business men the agents upon which they rely without giving them at least a reasonable time in which to find other means of carrying on their business without injury to themselves or their employees.

It would be a good thing also for the President and for the Postmaster General to find out exactly how many well-paid American citizens are engaged in work and depend for a living on the enterprise of business men who, in turn, rely upon advertising for marketing their wares.

The post office is a vital part of the life of the people. Its activities have become essential. Those activities should under no circumstances be interfered with or experimented with, except with the greatest caution and after fullest investigation.

We suggest to the President and the Postmaster General that the Government could better afford to wait a year, even assuming all that is alleged against the magazines to be true, than run any risk of interfering seriously with many of the most important business enterprises of the United States.

We are especially anxious that what we believe to be a serious mistake should not be made in this case, because we appreciate the work that Mr. Taft has done and the work that has been done under his direction by Mr. Hitchcock toward making the post office what it should be, more and more a useful servant of the people. Recently announced plans of the Post Office Department, under Mr. Taft's administration, embody many wise features worthy of public approval and gratitude, including the increase in the postal savings-bank facilities, the beginning, at least, of an intelligent parcels-post system, and many other steps. The record of the present Postmaster General, making the post office a detector of crime and a discourager of swindling, is of the highest order. These things the people appreciate, and such a record should not be marred by an action which is at best hasty and which is misconstrued by those that do not understand the President as an expression of personal resentment because certain unimportant bilious publications have attacked him personally and unjustly.

Mr. CHAMP CLARK, who is to be the director of the House of Representatives, presiding over the Democratic majority, has taken an excellent stand in regard to this matter, one that is clear-headed and worthy of all praise.

But there should be in the case no question of politics or of party.

The vital point is this: The post office suddenly and without sufficient warning, without proof of careful investigation as to results, changes its methods, its charges to a vital degree, and actually and specifically singles out for a special tax and for special punishment the announcements of business men, whose activities are devoted to the general welfare and the general prosperity.

It is unfortunate that owners and editors of magazines—many of whom are the beneficiaries of a somewhat accidental success and rather easily earned conspicuousness—should have organized and expressed in a silly fashion their opposition to the suggested change in post-office rates.

These excitable and tactless gentlemen have acted as a nervous settler might be expected to act upon the arrival of red Indians. They have filled the air with accusations of all sorts and have made the very foolish mistake of defending themselves with false statements.

The fact is that the Postmaster General and the President of the United States are using their intelligence and their best judgment in an effort to serve the people and protect the public's interest. Others that know perhaps more, by special training, about the magazine question than the President or the Postmaster General, believe that a mistake is being made, one that will have serious consequences not foreseen.

Mr. Taft and his Postmaster General are perfectly willing to hear reasonable statements and take them into account. Senator PENROSE, the head of the Senate Committee on Post Offices and Post Roads, is a man with a clear comprehension of business conditions. Every Member of the House of Representatives can easily find out for himself the part that magazine advertising plays in the business of the community, the extent to which it helps business and labor.

It ought not to be, and, we believe, it will not be, very difficult to persuade those in authority to think carefully and wait at least a reasonable length of time before they pass a law that would be the first in the history of the United States aimed directly at business men and at the efforts of business men to increase American manufactures and American distribution.

Mr. GORE subsequently said: I ask unanimous consent to have printed as a public document the views of certain publishers of the country in relation to the proposed increase in postage on second-class mail matter.

The VICE PRESIDENT. The Senator from Oklahoma asks unanimous consent for the printing as a Senate document of the views of certain publishers upon the subject which he has designated. Is there objection?

Mr. GALLINGER. Mr. President, it seems to me that that matter was ordered printed, or that some other Senator made a similar request this morning.

Mr. GORE. If that be true, of course I withdraw the request.

The VICE PRESIDENT. The matter was not ordered printed as a public document, but upon the request of the Senator from Iowa [Mr. YOUNG] it was ordered printed in the CONGRESSIONAL RECORD.

Mr. GORE. Then I withdraw the request.

#### REPORTS OF COMMITTEES.

Mr. SCOTT, from the Committee on Public Buildings and Grounds, to which was referred the bill (S. 10299) to enlarge the site of the Federal building at Akron, Ohio, reported it without amendment.

Mr. BRIGGS, from the Committee on Military Affairs, to which was referred the bill (H. R. 15616) for the relief of Louis Durst, reported it with an amendment and submitted a report (No. 1184) thereon.

Mr. BRIGGS. I am directed by the Committee on Military Affairs, to which was referred the bill (S. 7494) to correct the military record of Louis Durst, to ask for its indefinite postponement, as a House bill on the same subject has been reported favorably from the committee.

The VICE PRESIDENT. The bill will be postponed indefinitely.

Mr. DU PONT, from the Committee on Military Affairs, to which was referred the bill (S. 7640) to correct the military record of James M. Sweat, reported it with amendments and submitted a report (No. 1185) thereon.

Mr. JOHNSTON, from the Committee on Military Affairs, to which was referred the bill (S. 3831) for the relief of James Tulley, submitted an adverse report (No. 1186) thereon; which was agreed to, and the bill was postponed indefinitely.

Mr. WARNER, from the Committee on Military Affairs, to which was referred the bill (H. R. 8185) for the relief of Valentine Fraker, reported it without amendment and submitted a report (No. 1187) thereon.

Mr. WARNER. I am directed by the Committee on Military Affairs, to which was referred the bill (S. 1545) to amend and correct the records of Company D, Seventh Regiment Provisional Enrolled Missouri Militia, by including the name of Valentine Fraker therein, with the dates of his enlistment and discharge, to ask that it be indefinitely postponed, as a similar House bill has been heretofore reported favorably.

The VICE PRESIDENT. The bill will be postponed indefinitely.

Mr. FRAZIER, from the Committee on Military Affairs, to which was referred the bill (H. R. 3982) for the relief of David F. Wallace, reported it with an amendment and submitted a report (No. 1188) thereon.

Mr. CLARKE of Arkansas. I am directed by the Committee on Interstate Commerce, to which was referred the bill (H. R. 24073) to prohibit interference with commerce among the States and Territories and with foreign nations, and to remove obstructions thereto, and to prohibit the transmission of certain messages by telegraph, telephone, cable, or other means of communication between States and Territories and foreign nations, to report it with amendments striking out sections 3, 4, 6, and 7 of the bill and without recommendation.

The VICE PRESIDENT. The bill will be placed on the calendar.

Mr. BURNHAM, from the Committee on Claims, to which was referred the bill (H. R. 26367) to pay certain employees of the Government for injuries received while in the discharge of duty, reported it with amendments and submitted a report (No. 1190) thereon.

Mr. WARREN, from the Committee on Public Buildings and Grounds, to which were referred the following bills, reported them each with amendments:

S. 10744. A bill to provide for the purchase of a site for the erection of a public building thereon at Sundance, in the State of Wyoming; and

S. 10790. A bill to provide for the acquisition of a site and the erection thereon of a public building at Newcastle, Wyo.

#### LANDS IN IDAHO.

Mr. HEYBURN. I ask unanimous consent to call up for consideration the bill (S. 10791) to eliminate from forest and other reserves certain lands included therein for which the State of Idaho had, prior to the creation of said reserves, made application to the Secretary of the Interior under its grants that such lands be surveyed.

I would say that this is a measure that is necessary in order to complete an arrangement which is pending between the officers of the State and the executive officers of the Government.

Mr. BEVERIDGE. Will it take any discussion?

Mr. HEYBURN. No; there should be no discussion of it.

The VICE PRESIDENT. The Secretary will read the bill for the information of the Senate.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### MANEUVERING GROUNDS, ETC., IN TENNESSEE.

Mr. FRAZIER. From the Committee on Military Affairs I report back the joint resolution (H. J. Res. 146) creating a commission to investigate and report on the advisability of the establishment of permanent maneuvering grounds and camp of inspection for troops of the United States at or near the Chickamauga and Chattanooga National Military Park, with an

amendment in the nature of a substitute, and I submit a report (No. 1189) thereon. I ask for its immediate consideration.

The VICE PRESIDENT. Is there objection to the present consideration of the joint resolution?

Mr. SMOOT. I should like to ask the Senator whether it was reported from the Committee on Military Affairs.

Mr. FRAZIER. Yes; it is a unanimous report of the Committee on Military Affairs. It is a substitute, to take the place of two joint resolutions passed by the House on the same subject. It carries no appropriation but the actual expenses of the board.

Mr. JONES. I ask the Senator if the resolution simply refers to land in Tennessee?

Mr. FRAZIER. It does.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which had been reported from the Committee on Military Affairs with an amendment to strike out all after the resolving clause and insert:

*Resolved, etc.*, That the President of the United States be, and he is hereby, authorized and directed to appoint a commission consisting of five officers of the Army of the United States to make a full and complete investigation, and consider carefully whether or not it is advisable to make, establish, and maintain a maneuvering ground and camp of inspection rifle and artillery ranges for United States troops at or near the Chickamauga and Chattanooga National Military Park. Said commission shall fully consider the advantages and disadvantages of the lands contiguous to or near to said park for the purposes herein stated, and report fully as to probable numbers of acres of land necessary to purchase, and the probable cost of the same, and as to all facts and conditions material to be considered in the premises. The report shall be filed in the War Department by December 1, 1911, and communicated to Congress thereafter as soon as practicable by the President.

Sec. 2. That said board or commission shall also examine carefully all lands within the State of Tennessee that may be proposed to be donated to the United States for the establishment and maintenance thereon of a maneuvering encampment and rifle and artillery ranges for the assembling of troops from the group of States composed of Tennessee, Kentucky, Mississippi, Alabama, Georgia, Florida, North Carolina, and South Carolina and report on the advisability of establishing such camps, rifle and artillery ranges on such lands proposed to be donated, and whether the lands proposed to be donated are suitable and desirable for such purposes, and how much land would be properly required for said purposes, and whether the lands proposed to be donated are sufficient in quantity for the purposes proposed and conveniently located for use by troops from said States, and the facilities for transportation of troops and supplies to and from said lands, and such other facts as may be material to be considered in the premises.

Sec. 3. That the said board or commission shall serve without compensation, but shall be paid actual necessary expenses.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution was read the third time and passed.

The title was amended so as to read: "A joint resolution creating a commission to investigate and report on the advisability of the establishment of permanent maneuvering grounds, camp of inspection, rifle and artillery ranges for troops of the United States at or near the Chickamauga and Chattanooga Military Park, and to likewise report as to certain lands in the State of Tennessee proposed to be donated to the United States for said purposes."

Mr. FRAZIER, from the Committee on Military Affairs, to which was referred the joint resolution (H. J. Res. 189) authorizing the Secretary of War to accept the title to any lands which may be donated to the United States which, in his opinion, may be a suitable place for maneuvering, encampment, rifle and artillery ranges, and convenient for assembling troops from the group of States composed of Kentucky, Tennessee, Mississippi, Alabama, Georgia, Florida, North Carolina, and South Carolina, reported adversely thereon, and the joint resolution was postponed indefinitely.

JAMES DONOVAN.

Mr. BULKELEY. From the Committee on Military Affairs I report back favorably without amendment the bill (H. R. 26018) for the relief of James Donovan, and I submit a report (No. 1181) thereon. I ask unanimous consent for its present consideration.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It provides that in the administration of any laws conferring rights, privileges, or benefits upon honorably discharged soldiers, James Donovan, who was a private in Company E, First Regiment United States Cavalry, shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a member of said company and regiment, but other than as above set forth no bounty, pay, pension, or other emolument shall accrue prior to or by reason of the passage of this act.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ADDITIONAL DISTRICT JUDGE IN COLORADO.

Mr. CLARK of Wyoming. From the Committee on the Judiciary I report back favorably without amendment the bill (S. 9914) to provide for the appointment of one additional district judge in and for the district of Colorado, and I ask for its immediate consideration.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MINNESOTA RIVER DAMS.

Mr. NELSON. From the Committee on Commerce I report back favorably without amendment the bill (S. 10836) to authorize the Minnesota River Improvement & Power Co. to construct dams across the Minnesota River, and I ask for its present consideration. It is very short.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

YELLOW FEVER COMMISSION.

Mr. SMOOT. From the Committee on Printing I report back favorably with an amendment Senate resolution 330, submitted by the Senator from Oklahoma [Mr. OWEN] on the 27th ultimo, providing for the printing of the compilation relative to the work of Maj. Walter Reed and the Yellow Fever Commission, and I ask for its present consideration.

The Senate, by unanimous consent, proceeded to consider the resolution.

The amendment was, in line 2, before the word "thousand," to strike out "three" and insert "one," so as to make the resolution read:

*Resolved*, That there be printed, with accompanying illustrations, for the use of the Senate, 1,000 copies of the compilation relative to the work of Maj. Walter Reed and the Yellow Fever Commission.

The amendment was agreed to.

The resolution as amended was agreed to.

REPORT ON BILLS OF EXCHANGE.

Mr. SMOOT, from the Committee on Printing, to which was referred Senate resolution 337, submitted by Mr. CULLOM on the 6th instant, reported it without amendment, and it was considered by unanimous consent and agreed to, as follows:

*Resolved*, That there be printed for use of the American commissioner to the International Conference on Bills of Exchange held at The Hague during 1910, 400 copies of his report, which report was recently transmitted to Congress by the President.

STEPHENSON GRAND ARMY MEMORIAL.

Mr. SMOOT. From the Committee on Printing I report back, with amendments, Senate concurrent resolution 7, submitted by the Senator from Rhode Island [Mr. WETMORE] on July 20, 1909, and I ask for its present consideration.

The Senate, by unanimous consent, proceeded to consider the concurrent resolution.

The amendments were, in line 3, before the word "thousand," to strike out "fourteen" and insert "seven"; in line 6 to strike out "four thousand" and insert "fifteen hundred"; and in line 7 to strike out "eight thousand" and insert "three thousand five hundred," so as to make the resolution read:

*Resolved by the Senate (the House of Representatives concurring)*, That there be printed and bound, in the form of eulogies, including illustrations, 7,000 copies of the proceedings on the occasion of the dedication of the Stephenson Grand Army Memorial, in Washington, July 3, 1909, of which 1,500 shall be for the use of the Senate, 3,500 for the use of the House of Representatives, and 2,000 to be delivered to the Stephenson Grand Army Memorial Committee.

The amendments were agreed to.

The concurrent resolution as amended was agreed to.

ELECTRIC RAILWAY AT VICKSBURG, MISS.

Mr. JOHNSTON. From the Committee on Military Affairs I report back favorably without amendment the bill (H. R. 26885) to authorize E. J. Bomer and S. B. Wilson to construct and operate an electric railway over the National Cemetery Road at Vicksburg, Miss., and submit a report (No. 1182) thereon. I ask for its present consideration.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.



## PRINTING OF DISTRICT CODE.

Mr. GALLINGER. From the Committee on the District of Columbia I report back favorably without amendment the joint resolution (S. J. Res. 144) authorizing the printing of 2,500 copies of the Code of Law for the District of Columbia, and I submit a report (No. 1183) thereon. I ask unanimous consent for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It authorizes the Public Printer to print 2,500 copies of the Code of Law for the District of Columbia, as recompiled, indexed, and annotated by William F. Meyers, master of laws, of the executive office of the District of Columbia, under supervision of Edward H. Thomas, Esq., corporation counsel, District of Columbia; 100 copies for the use of the Committee on the District of Columbia, United States Senate; 100 copies for the use of the Committee on the District of Columbia, House of Representatives; and 100 copies for the Commissioners of the District of Columbia; and it authorizes the Public Printer to sell the surplus copies at a rate per copy to be fixed by him approximating but not less than the cost of printing and binding.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

## BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. FRYE:

A bill (S. 10837) for the relief of Joseph P. Davis; to the Committee on Military Affairs.

By Mr. GAMBLE (by request):

A bill (S. 10838) for the relief of John W. Stockett (with accompanying paper); to the Committee on Claims.

By Mr. FRAZIER:

A bill (S. 10839) to provide for an experiment in the improvement of certain highways by the Secretary of Agriculture in cooperation with the Postmaster General, and for other purposes; to the Committee on Agriculture and Forestry.

By Mr. GORE:

A bill (S. 10840) granting a pension to Thomas J. Lester (with accompanying papers); to the Committee on Pensions.

By Mr. OWEN:

A bill (S. 10841) for the relief of Frank J. Boudinet; to the Committee on Claims.

By Mr. PAGE:

A bill (S. 10842) for the relief of Victor Beaulac and others; to the Committee on Claims.

By Mr. WARREN:

A bill (S. 10843) for the settlement of claims for damages to and loss of private property; to the Committee on Claims.

By Mr. BURNHAM:

A bill (S. 10844) for the relief of John H. Baker and others (with accompanying paper); to the Committee on Claims.

By Mr. CLAPP:

A bill (S. 10845) granting an increase of pension to Calvin Hitt (with accompanying papers); to the Committee on Pensions.

By Mr. SMITH of Michigan:

A bill (S. 10846) to correct the military record of David Hauk (with accompanying paper); to the Committee on Military Affairs.

By Mr. FLETCHER:

A bill (S. 10847) for the relief of Robert Craig and others; to the Committee on Claims.

By Mr. BRADLEY:

A bill (S. 10848) for the relief of the trustees of the Christian Church of Cadiz, Ky.; to the Committee on Claims.

## AMENDMENTS TO APPROPRIATION BILLS.

Mr. BRISTOW submitted an amendment relative to the fixing of fees for the grazing of sheep on the national forests, etc., intended to be proposed by him to the agricultural appropriation bill, which was referred to the Committee on Agriculture and Forestry and ordered to be printed.

Mr. DIXON submitted an amendment proposing to increase the appropriation for the improvement of the national forests from \$490,000 to \$700,000, intended to be proposed by him to the agricultural appropriation bill, which was referred to the Committee on Agriculture and Forestry and ordered to be printed.

Mr. BURROWS submitted an amendment proposing to appropriate \$1,656.25 to pay Charles H. McGurran, being the balance due him for copies of testimony furnished, by order of the chairman of the Committee on Privileges and Elections, to members

of the subcommittee making investigation of charges against WILLIAM LORIMER, a Senator from the State of Illinois, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. OWEN submitted an amendment proposing to appropriate \$52,000 for the maintenance, etc., of the Platt National Park, intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. WARREN submitted an amendment proposing to appropriate \$22,802.42 for payment of 183 approved claims for damages to and loss of private property belonging to citizens of the United States, Hawaii, and the Philippines Islands that have arisen previous to August 1, 1910, etc., intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Military Affairs and ordered to be printed.

## WITHDRAWAL OF PAPERS—JOHN B. GARVEY.

On motion of Mr. SCOTT, it was

Ordered, That leave be granted to withdraw from the files of the Senate, without leaving copies, the papers in the case of Senate bill 71 granting a pension to John B. Garvey, Sixty-first Congress, first session, no adverse report having been made thereon.

## STENOGRAPHER TO COMMITTEE ON EXPENDITURES IN DEPARTMENT OF STATE.

Mr. ROOT submitted the following resolution (S. Res. 352), which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

*Resolved*, That the Committee on Expenditures in the Department of State be, and it is hereby, authorized to employ a stenographer, at a salary of \$1,200 per annum, to be paid out of the contingent fund of the Senate, until March 31, 1911.

Mr. KEAN subsequently, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred the foregoing resolution, reported it without amendment, and it was considered by unanimous consent, and agreed to.

## ABSECON INLET, N. J.

Mr. BRIGGS submitted the following resolution (S. Res. 353), which was considered by unanimous consent and agreed to:

*Resolved*, That the Chief of Engineers of the Army be instructed to transmit to the Senate the estimates of cost for the improvement of Absecon Inlet, in the State of New Jersey, the same being now before the board of review.

## CONVEYANCE OF MAIL MATTER BY PRIVATE EXPRESS.

Mr. GORE. I offer the resolution which I send to the desk and ask for its immediate consideration.

The VICE PRESIDENT. The resolution submitted by the Senator from Oklahoma will be read.

The Secretary read the resolution (S. Res. 354), as follows:

*Resolved*, That the Postmaster General be requested to inform the Senate whether there have been frequent, continuous, and systematic violations of section 181 of the Criminal Code of the United States, effective January 1, 1910, and if so, what steps have been taken to prevent and punish such violations.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

Mr. HEYBURN. I ask that the resolution may be again read. I did not catch a part of it from the reading.

The VICE PRESIDENT. Without objection, the resolution will be again read.

The Secretary again read the resolution.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

Mr. HEYBURN. Mr. President, the resolution is so indefinite that one hardly knows whether to object. I wish the Senator from Oklahoma would ask the indulgence of the Senate to state what the violations referred to in the resolution consist of.

Mr. GORE. I think the suggestion is entirely proper, and I will ask to have the section referred to in the joint resolution read to the Senate.

The VICE PRESIDENT. Without objection, the Secretary will read as requested.

Mr. BORAH. Mr. President, is the resolution submitted by the Senator from Oklahoma before the Senate?

The VICE PRESIDENT. The request of the Senator from Oklahoma is for unanimous consent for its present consideration.

Mr. BORAH. The resolution is evidently going to lead to debate.

Mr. HEYBURN. Let the section be read so that we may know what it is.

Mr. PENROSE. Mr. President, I ask that the resolution may be again read.

The VICE PRESIDENT. The resolution has just been read, and the Secretary was about to read the section of the law referred to therein.

The Secretary read as follows:

Sec. 181. Whoever shall establish any private express for the conveyance of letters or packets, or in any manner cause or provide for the conveyance of the same by regular trips, or at stated periods, over any post route which is or may be established by law, or from any city, town, or place, to any other city, town, or place, between which the mail is regularly carried, or whoever shall aid or assist therein shall be fined not more than \$500, or imprisoned not more than six months, or both: *Provided*, That nothing contained in this section shall be construed as prohibiting any person from receiving and delivering to the nearest post-office, postal car, or authorized depository for mail matter, any mail matter properly stamped.

Mr. PENROSE. Now I ask to have the resolution again read.

The VICE PRESIDENT. Without objection, the Secretary will again read the resolution.

The Secretary again read the resolution.

The resolution was considered by unanimous consent and agreed to.

#### TEACHERS' PENSION LAWS.

Mr. GALLINGER. I ask that Senate Document No. 585, Sixtieth Congress, second session, relative to the teachers' pension laws in the United States and Europe, be reprinted as corrected to date, and also that 200 additional copies be printed for the use of the Senate document room.

The VICE PRESIDENT. Without objection, it is so ordered.

#### COMPILATION OF RECIPROCITY TREATIES.

Mr. JONES. I present a compilation of reciprocity treaties between the United States and foreign countries. I desire to have the compilation printed, and I move that it be referred to the Committee on Printing for its consideration.

The motion was agreed to.

#### PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. Latta, Executive clerk, announced that the President had approved and signed the following acts and joint resolutions:

On February 14, 1911:

S. 2469. An act for the relief of Alfred Childers;

S. 7252. An act granting an annuity to John R. Kissinger;

S. 10594. An act to authorize S. G. Guerrier, of Atchison, Kans., to construct a bridge across the Missouri River near the city of Atchison, Kans.; and

S. J. Res. 101. Joint resolution providing for the printing of 2,000 copies of Senate Document No. 357, for use of the Department of State.

On February 16, 1911:

S. 1028. An act to appoint Warren C. Beach a captain in the Army and place him on the retired list;

S. 10595. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors; and

S. J. Res. 124. Joint resolution reaffirming the boundary line between Texas and the Territory of New Mexico.

On February 17, 1911:

S. 6702. An act to promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their locomotives with safe and suitable boilers and appurtenances thereto.

#### INTOXICANTS AMONGST INDIANS.

The VICE PRESIDENT laid before the Senate the following message from the President of the United States (S. Doc. No. 824), which was read and referred to the Committee on Indian Affairs and ordered to be printed:

*To the Senate and House of Representatives:*

Half a century ago treaties were entered into with Indian tribes occupying a portion of the present State of Minnesota, in all of which were contained provisions prohibiting the introduction, manufacture, use, and traffic in intoxicants in the country which was the subject of the treaties. In the years which have elapsed since making these treaties conditions have largely changed, the Indian population has been reduced, large white settlements have been made, and great cities like St. Paul and Minneapolis have come to occupy a portion of what, at the date of the treaties, was denominated Indian country.

Notwithstanding these facts, this territory still remains subject to the regulations respecting the traffic in liquors originally imposed for the protection of the Indians. Such an anomalous condition of affairs should no longer continue, and the regulation of traffic in liquors in those areas now almost exclusively occupied by white people should be left to them. In those instances where the treaties authorize the President to repeal or modify the provisions, I have exercised that right. Some

of the treaties, however, provide that the provisions referred to shall continue and be in force until otherwise provided by Congress.

By the treaty of February 27, 1855 (10 Stat., 1172), with the Winnebago Tribe of Indians that tribe ceded to the United States a tract of land granted to them by the treaty made October 13, 1846, within the Territory—now the State—of Minnesota, lying north of St. Peters River and west of the Mississippi River, estimated to contain about 897,900 acres, and in part consideration of the cession the United States agreed to grant to the said Indians as their permanent home a certain tract to be selected as therein provided. The treaty contained the following provision:

ART. 8. The laws which have been or may be enacted by Congress regulating trade and intercourse with the Indian tribes shall continue and be in force within the country herein provided to be selected as the future permanent home of the Winnebago Indians; and those portions of said laws which prohibit the introduction, manufacture, use of, and traffic in ardent spirits in the Indian country shall continue and be in force within the country herein ceded to the United States until otherwise provided by Congress.

As there are but few, if any, Indians residing within said area, and the Indian Office reports that there is no occasion for the continuance in force and effect of the treaty provision above referred to, I recommend that legislation be enacted declaring the treaty provision above quoted to be of no further force or effect.

By the treaty of September 30, 1854 (10 Stat., 1109), made with the Chippewa Indians of Lake Superior and the Mississippi, ceding to the United States a large area, comprising the extreme northeastern portion of the State of Minnesota, it was provided:

ART. 7. No spirituous liquors shall be made, sold, or used on any of the lands herein set apart for the residence of the Indians, and the sale of the same shall be prohibited in the territory hereby ceded until otherwise ordered by the President.

No legislation has ever been enacted pursuant to this stipulation, and for this reason the same has remained entirely ineffective.

According to the latest Indian census reports, there are within the area ceded by this treaty about 1,253 Indians, most of whom are located within the portion of said territory hereinafter described, whose welfare requires effective laws restricting traffic in liquor in their neighborhood.

I therefore recommend that appropriate legislation be enacted, extending the laws of the United States prohibiting the introduction and sale of spirituous liquors in the Indian country throughout that portion of the territory ceded by said treaty, particularly described as follows:

Beginning at a point where the line between townships 45 and 46 north intersects the line between ranges 15 and 16 west of the fourth principal meridian; thence north along said line to the northeast corner of township 53 north, range 16 west; thence west along the line between townships 53 and 54 north to the point where it intersects the western boundary established by said treaty of September 30, 1854; thence following the said treaty line in a southwesterly direction to the point where it intersects the line between townships 45 and 46 north; thence due east along said line to the point of beginning, and all that portion of the State of Minnesota which lies east of the fourth principal meridian.

By the treaty of February 22, 1855 (10 Stat., 1165), with the Mississippi bands of Chippewa Indians, an area extending almost entirely across the northern part of the State of Minnesota and from its northerly boundary practically to its center was ceded to the United States, the provision thereof concerning intoxicating liquor being as follows:

ART. 7. The laws which have been or may be enacted by Congress, regulating trade and intercourse with the Indian tribes, to continue and be in force within and upon the several reservations provided for herein; and those portions of said laws which prohibit the introduction, manufacture, use of, and traffic in ardent spirits, wines, or other liquors in the Indian country shall continue and be in force within the entire boundaries of the country herein ceded to the United States until otherwise provided by Congress.

The records of the Indian Bureau show that there are within said area, under the jurisdiction of the superintendents of the White Earth and Leech Lake Reservations, 7,196 Indians, who can be amply protected by limiting the territory as to which said treaty provisions shall remain in force and effect to the area within and contiguous to said reservations, particularly described as follows:

Beginning at the mouth of the Wild Rice River; thence in a northeasterly direction along the line established by said treaty of February 22, 1855, to the point where it intersects the line between townships 32 and 33 west of the fifth principal meridian; thence south along said line to the northeast corner of township 146 north, range 33 west of the fifth principal meridian; thence east along said line to the northeast corner of township 146 north, range 25 west of the fifth principal meridian; thence north along the third guide meridian to the northwest corner of fractional township 58 north, range 27 west of the fourth principal meridian; thence east to the northeast corner of said township; thence south along the line between ranges 26 and 27 west of the fourth principal meridian to the southeast corner of township 53 north, range 27 west of the fourth principal meridian; thence west to



the southwest corner of said township; thence south along the third guide meridian to the point where it crosses the Mississippi River; thence down the said river to the mouth of Crow Wing River; thence in a westerly direction, following the southern boundary of said treaty to the point where it intersects the line between townships 35 and 36 west of the fifth principal meridian; thence north along said line to the northeast corner of township 136 north, range 36 west; thence west along the line between townships 136 and 137 north to the point where it intersects the boundary line established by said treaty; thence along said boundary to the point of beginning.

I therefore recommend that Congress modify the article of said treaty quoted above so as to exclude from the operations of its provisions all of the territory ceded by said treaty to the United States, except that immediately above described.

WM. H. TAFT.

THE WHITE HOUSE, February 17, 1911.

#### DISPOSITION OF WATERS UNDER RECLAMATION PROJECTS.

Mr. WARREN submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 6953) authorizing contracts for the disposition of waters of projects under the reclamation act, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 9, 12, and 13, and agree to the same.

That the Senate recede from its disagreement to the amendments of the House numbered 1, 2, 3, 4, 5, and 6, and agree to the same with amendments as follows: Strike out all of the matter in section 1 of the bill, and all of the matter proposed to be inserted in said section, and insert in lieu thereof the following:

That whenever in carrying out the provisions of the reclamation law, storage or carrying capacity has been or may be provided in excess of the requirements of the lands to be irrigated under any project, the Secretary of the Interior, preserving a first right to lands and entrymen under the project, is hereby authorized, upon such terms as he may determine to be just and equitable, to contract for the impounding, storage, and carriage of water to an extent not exceeding such excess capacity with irrigation systems operating under the act of August 18, 1894, known as the Carey Act, and individuals, corporations, associations, and irrigation districts organized for or engaged in furnishing or in distributing water for irrigation. Water so impounded, stored, or carried under any such contract shall be for the purpose of distribution to individual water users by the party with whom the contract is made: *Provided, however*, That water so impounded, stored, or carried shall not be used otherwise than as prescribed by law as to lands held in private ownership within Government reclamation projects. In fixing the charges under any such contract for impounding, storing, or carrying water for any irrigation system, corporation, association, district, or individual, as herein provided, the Secretary shall take into consideration the cost of construction and maintenance of the reservoir by which such water is to be impounded or stored and the canal by which it is to be carried, and such charges shall be just and equitable as to water users under the Government project. No irrigation system, district, association, corporation, or individual so contracting shall make any charge for the storage, carriage, or delivery of such water in excess of the charge paid to the United States except to such extent as may be reasonably necessary to cover cost of carriage and delivery of such water through their works.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House numbered 7, and agree to the same with an amendment as follows: Strike out the apostrophe which appears in said amendment; and the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House numbered 8, and agree to the same with an amendment as follows: In the matter proposed to be inserted strike out the apostrophe which appears after the word "corporations" and insert in lieu thereof a comma; and the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House numbered 10, and agree to the same with an amendment as follows: Strike out the apostrophe which appears in said amendment; and the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House numbered 11, and agree to the same with an amendment as follows: In the matter proposed to be inserted strike out the apostrophe which appears after the word "corporations" and insert in lieu thereof a comma; and the House agree to the same.

Amendment as to title: That the Senate recede from its disagreement to the amendment of the House as to the title, and agree to the same with an amendment as follows: In lieu of the title proposed in said amendment insert the following: "An act to authorize the Government to contract for impounding, storing, and carriage of water, and to cooperate in the construction and use of reservoirs and canals under reclamation projects, and for other purposes;" and the House agree to the same.

F. E. WARREN,

W. L. JONES,

J. W. BAILEY,

*Managers on the part of the Senate.*

W. A. REEDER,

RALPH D. COLE,

W. R. SMITH,

*Managers on the part of the House.*

The report was agreed to.

CHARLES RIVER (MASS.) BRIDGES.

Mr. DEPEW submitted the following report:

#### CONFERENCE REPORT.

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 26150) to authorize the cities of Boston and Cambridge, Mass., to construct drawless bridges across the Charles River, between the cities of Cambridge and Boston, in the State of Massachusetts, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to section 1 of the bill, and agree to the same with an amendment as follows, to wit: Strike out of the Senate amendment the following:

*"Provided further*, That the State of Massachusetts shall, within a reasonable time after the completion of said bridges, or any of them, by legislative enactment provide for adequate compensation to the owner or owners of wharf property now used as such on said river above any of said bridges, for damages, if any, sustained by said property by reason of interference with access by water to said property now enjoyed, because of the construction of said bridges without a draw." and insert in lieu thereof the following:

*"Provided further*, That before the construction of said bridges or any of them is begun, the State of Massachusetts shall by legislative enactment provide for adequate compensation for the owner, owners, lessee or lessees of property abutting on said river above any of the said bridges, for damages if any caused to said property or leasehold interests therein by reason of interference with the access by water to said property, due to the construction of bridges without draws: *Provided further*, That said legislative enactment shall provide for the appointment of three commissioners to hear the parties in interest and assess the damages to said property; their decision as to the amount of damages and questions of fact to be final; said commissioners to be appointed by the supreme judicial court of Massachusetts."

And the Senate agreed to the same.

Also, amend the title of the bill by striking out the present title and inserting in lieu thereof as the title of the bill the following: "To authorize the construction of drawless bridges across a certain portion of the Charles River in the State of Massachusetts."

CHAUNCEY M. DEPEW,

S. H. PILES,

WM. J. STONE,

*Managers on the part of the Senate.*

JAMES R. MANN,

C. G. WASHBURN,

W. C. ADAMSON,

*Managers on the part of the House.*

The report was agreed to.

#### ELECTION OF SENATORS BY DIRECT VOTE.

Mr. BORAH. Mr. President, I ask that the unfinished business may be now laid before the Senate.

The VICE PRESIDENT. Without objection, the Chair lays before the Senate the unfinished business, the title of which will be stated.

The SECRETARY. A joint resolution (S. J. Res. 134) proposing an amendment to the Constitution providing that Senators shall be elected by the people of the several States.

Mr. BORAH. Mr. President, I desire to ask leave this morning to print in my remarks of yesterday some excerpts from

some of the opinions which I did not feel like taking the time of the Senate then to read.

The VICE PRESIDENT. Is there objection to the request of the Senator from Idaho? The Chair hears none.

Mr. HEYBURN. I merely suggest for the record that this joint resolution is not before the Senate as the unfinished business, but by unanimous consent.

The VICE PRESIDENT. It is before the Senate by unanimous consent now, certainly.

Mr. RAYNER obtained the floor.

Mr. OVERMAN. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	Culberson	Johnston	Richardson
Bankhead	Cullom	Jones	Root
Beveridge	Cummins	Kean	Scott
Borah	Curtis	La Follette	Shively
Brandegee	Depew	Lodge	Simmons
Briggs	Dillingham	McCumber	Smith, S. C.
Bristow	Dixon	Martin	Smoot
Brown	Fletcher	Newlands	Stephenson
Bulkeley	Flint	Nixon	Stone
Burnham	Foster	Overman	Sutherland
Burrows	Frazier	Owen	Taylor
Carter	Frye	Page	Thornton
Chamberlain	Gallinger	Paynter	Tillman
Clapp	Gamble	Penrose	Warner
Clark, Wyo.	Gore	Percy	Warren
Clarke, Ark.	Gronna	Perkins	Watson
Crane	Guggenheim	Piles	Wetmore
Crawford	Heyburn	Rayner	Young

The VICE PRESIDENT. On the roll call 72 Senators have answered to their names. A quorum of the Senate is present.

Mr. RAYNER. Mr. President, I propose to be as brief in this discussion as possible, and I desire to say that if there are any questions that Senators propose to ask me relevant to the points I am making I shall be glad to answer them if I can. My remarks this morning will be upon the Sutherland amendment in connection with the suggestions made by the junior Senator from New York [Mr. Root] in reference to the election of Senators by the people.

The first point I want to suggest to the Senate is this, that I propose to speak by the adjudications and not upon an important question of this sort to venture opinions of my own, because I believe that every subject we are discussing is covered by decisions of the Supreme Court of the United States; and while I shall not refer to many of them, and only to extracts from a few of them, I shall rest this argument upon the cases.

The first proposition is this: I do not think that the Sutherland amendment—and I call it the Sutherland amendment because it is an amendment—with a single exception accomplishes any purpose whatever; and I do not think it ought to be forced upon us by Members upon the other side who are in favor of the passage of the original joint resolution.

I believe to-day, Mr. President, under the cases—and I am not a liberal interpreter of the Constitution—that the Federal Congress, without the Sutherland amendment, has the right to protect the polls against fraud, corruption, violence, and intimidation at Federal elections.

I want to read now, because it covers the whole case, an extract from the case the Senator from Idaho referred to yesterday, but did not read in full. I think it settles this point, and this is the most important point in the whole controversy.

If I am right about that, then I appeal to Senators upon the Republican side who are earnestly in favor of the election of Senators by the people not to burden us with an amendment that accomplishes no purpose at all, and which might imperil the passage of the original joint resolution with the votes that will be cast against it upon this side of the Chamber.

Mr. NELSON. Mr. President—

The VICE PRESIDENT. Does the Senator from Maryland yield to the Senator from Minnesota?

Mr. RAYNER. Yes, sir.

Mr. NELSON. Why would it imperil the passage of the joint resolution to abrogate that provision of the Constitution?

Mr. RAYNER. It will imperil it very much if the Democratic side votes against it.

Mr. NELSON. Why would they vote against it?

Mr. RAYNER. Mr. President, I am not a political mind reader. If the Senator from Minnesota will come over and converse with some of them he will find why they will vote against it.

I do not know how our side stands. I am merely speaking for myself. I am not here to procure votes. I am here to tell the truth and state my own opinion upon the authorities, whether it gains votes or loses votes. I want to say to him

again that the adoption of the Sutherland amendment will imperil the passage of the joint resolution. It is a fact. You want a two-thirds vote to pass the joint resolution. The Senator from Minnesota is in favor of it, and so am I. We want a two-thirds vote to pass it. It takes only a majority vote to pass this Sutherland amendment, and I am appealing now to Senators who are in favor of the joint resolution and who believe as I do in the joint resolution and do not want any subterfuge to defeat it. When I use the word "subterfuge" I use it with entire deference to the Senator from Utah, because I know he does not intend it as a subterfuge, because he has already stated that even if the amendment be defeated he would nevertheless vote for the original proposition.

Let me read a few extracts from the case. I will not weary you with a long citation of authorities. I want to see if we can not agree upon some points. This is a complicated and delicate proposition we are arguing now. It demands a thorough analysis before one can come to a conclusion upon it. I have a practical object in view. It is not for the purpose of making a speech, because I would rather not make it than make it. I want to see if we can not persuade the Republican Members who are in favor of the original joint resolution that there is no necessity of putting the Sutherland amendment into the body of the joint resolution, and that we can do everything we ought to do and everything we want to do without the Sutherland amendment just as well as we can do it with the Sutherland amendment. That is the purpose of my argument.

Now, if I am right about that, if I can convince the Senate that the Sutherland amendment is unnecessary, except for purposes that I know you do not want to effect, then why put it in and why not give us the joint resolution as it stands, when this side, to say the least of it, is divided upon the proposition with the Sutherland amendment in?

Mr. NELSON. Will the Senator allow me a brief question?

Mr. RAYNER. Certainly.

Mr. NELSON. Does the Sutherland amendment inject any new provision into the Constitution that is not already there?

Mr. RAYNER. It does, most decidedly.

Mr. NELSON. I should like to have the Senator point it out.

Mr. RAYNER. I will point it out without any trouble at all. It injects a new feature into the Constitution because there is nothing in the Constitution now about the popular election of Senators. The constitutional provision which applies to the election of Senators by the legislature is one thing, and it is an entirely different thing when it applies to the election of Senators by the people, and it is governed by different principles.

Mr. SUTHERLAND. Mr. President—

The VICE PRESIDENT. Does the Senator from Maryland yield to the Senator from Utah?

Mr. RAYNER. I do.

Mr. SUTHERLAND. Does not the amendment I have introduced preserve the constitutional language precisely as it is now in section 4, and is not the only effect of it not to introduce any new principle into the Constitution, but simply, when we provide for the election of Senators by direct vote of the people, to provide a new application of an existing principle?

Mr. RAYNER. This is not the effect. Absolutely, it provides for a new principle. There was never an easier proposition to prove than that it provides for an entirely new principle, because now it is impossible to go behind the organization of the legislature.

Mr. SUTHERLAND. Mr. President—

Mr. RAYNER. One moment; let me finish the answer, and then the Senator can ask me another question. It is impossible now to go behind the organization of the legislature. Congress could not to-day pass an enactment covering the election of a legislature that elects a Senator of the United States. But when you once apply the Senator's proposition to a popular election, then Congress to a certain extent, as I will show presently, can interfere with the popular election.

Mr. President, it is the same language, but it is the same language applied to an entirely different order of things—

Mr. SUTHERLAND. Will the Senator from Maryland permit me one other suggestion?

Mr. RAYNER. Of course. I shall argue all these questions, but nevertheless I will submit to a question.

Mr. SUTHERLAND. When the Constitution was first adopted it provided that Congress should have the power to regulate commerce among the several States. At the time that language was adopted there was no such thing as a railroad, a telegraph, or a telephone line in the country. Those things were subsequently invented and subsequently put into operation. The language of the Constitution giving Congress power to regulate commerce at once applied to those new things. Would the Senator say that that was making a new principle or simply



the application of an existing principle of the Constitution to a new condition of affairs?

Mr. RAYNER. I have so much to say to-day that I am sorry I can not argue about telegraph companies and railroad companies. I am on the election of Senators by the people, and I do not see any similarity between the election of Senators by the people and telephone and telegraph companies. The election of Senators by the people presents a case sui generis, and while I fully grasp the Senator's suggestion, I submit the comparison is not well presented.

Mr. SUTHERLAND. I was trying to illustrate—

Mr. RAYNER. With due deference to the Senator from Utah, I can not see the slightest similarity between the two cases.

Mr. SUTHERLAND. Mr. President—

Mr. RAYNER. Will the Senator let me go on? I have not really begun yet. Will he let me go on and read this extract?

The VICE PRESIDENT. The Senator from Maryland desires not to be further interrupted.

Mr. RAYNER. Not for a few moments, until I have commenced the argument.

Mr. SUTHERLAND. I understood the Senator was willing to submit to interruptions.

Mr. RAYNER. Submitting to interruptions, which I am perfectly willing to do, is one thing, but submitting to interruptions before I have substantially commenced to speak is another.

Let me read. I read from a case that came from my own State, the case of *Ex parte Seibold*, in One hundredth United States:

It is the duty of the States to elect Representatives to Congress. The due and fair election of these Representatives is of vital importance to the United States. The Government of the United States is no less concerned in the transaction than the State government is. It certainly is not bound to stand by as a passive spectator when duties are violated and outrageous frauds are committed. It is directly interested in the faithful performance by the officers of election of their respective duties. Those duties are owed as well to the United States as to the State. This necessarily follows from the mixed character of the transaction—State and national. A violation of duty is an offense against the United States, for which the offender is justly amenable to that Government. No official position can shelter him from this responsibility. In view of the fact that Congress has plenary and paramount jurisdiction over the whole subject, it seems almost absurd to say that an officer who receives or has custody of the ballots given for a Representative owes no duty to the National Government which Congress can enforce; or that an officer who stuffs the ballot box can not be made amenable to the United States. If Congress has not, prior to the passage of the present laws, imposed any penalties to prevent and punish frauds and violations of duty committed by officers of election, it has been because the exigency has not been deemed sufficient to require it and not because Congress has not the requisite power.

In *Ex parte Clark* and *Ex parte Yarbrough* the doctrine declared in *Seibold's* case is reaffirmed, the court saying in the latter case:

If this Government is anything more than a mere aggregation of delegated agents of other States and governments, each of which is superior to the General Government, it must have the power to protect the elections on which its existence depends from violence and corruption.

The power in either case arises out of the circumstance that the function in which the party is engaged or the right which he is about to exercise is dependent on the laws of the United States.

In both cases it is the duty of that Government to see that he may exercise this right freely, and to protect him from violence while so doing or on account of so doing. This duty does not arise solely from the interest of the party concerned, but from the necessity of the Government itself, that its service shall be free from the adverse influence of force and fraud practiced on its agents, and that the votes by which its Members of Congress and its President are elected shall be the free votes of the electors and the officers thus chosen the free and uncorrupted choice of those who have the right to take part in that choice.

I agree, Mr. President, with the dissenting opinion of Justice Field in that case. Justice Field dissented, and he well expressed my views. But it is not a question here what my views are or what are the views of any other Senator. The question is, What has the Supreme Court decided in the *Yarbrough* case and the *Seibold* case?

The Supreme Court has decided that under the Constitution itself there is a Federal right and that the Government has the right to pass laws to protect the Federal right.

Mr. CARTER. Mr. President—

The VICE PRESIDENT. Does the Senator from Maryland yield to the Senator from Montana?

Mr. RAYNER. I do.

Mr. CARTER. The *Seibold* case is, of course, the leading case covering the point at issue here. The Senator will admit unquestionably that the decision of the court was based upon the constitutionality of certain election laws passed under authority of section 4 of Article I of the Constitution, the identical section which this joint resolution proposes to strike from the Constitution in so far as Federal power is concerned. So I sug-

gest to the Senator that if this amendment should obtain and the Constitution be amended so as to invest in the State the supreme authority, such laws as the *Seibold* case, construed in the light of the Constitution, could not be constitutionally enacted.

Mr. RAYNER. Mr. President, I wish this opinion had never been rendered. I believe in the dissenting opinion of Justice Field. But there it is, and upon this occasion I must prefer the opinion of the Supreme Court of the United States even to that of the Senator from Montana. Of course the Senator from Montana might be right and the Supreme Court might be wrong, but I am bound to accept the opinion of the Supreme Court of the United States. I deny that these cases—absolutely deny—that they rest entirely upon section 4 of Article I of the Constitution, which is the Sutherland amendment.

Mr. CARTER. Mr. President—

Mr. RAYNER. One moment. My judgment is that there is not a Senator on the Republican side of this Chamber who, if the Sutherland amendment is not adopted, would not argue that the Constitution of the United States, without the Sutherland amendment, protected the right to punish fraud, violence, and intimidation at the polls, and they would do so upon the strength of these cases. My opinion is merged in that of the Supreme Court. I am not giving my opinion. I have read the opinion of the court. The whole Republican side believes in the proposition that without the Sutherland amendment we could do it. I never heard a dissenting view from that in any debate or speech ever made on that subject in the Senate on the other side. We contended to the contrary until these cases overruled our judgment. We never believed that, with or without the Sutherland amendment, this was sound law, but there it is and Senators must face it.

Mr. CARTER. Mr. President—

The VICE PRESIDENT. Does the Senator from Maryland yield further to the Senator from Montana?

Mr. RAYNER. I will yield for an answer to this question: Suppose there should be no Sutherland amendment adopted and there was a law passed here to punish violence at the polls, would the Senator hold that we had the right to do it without the Sutherland amendment?

Mr. CARTER. If the States were invested by the Constitution with the sole and exclusive power to conduct the elections, the Federal Government would have naught to say regarding them.

Mr. RAYNER. Mr. President—

Mr. CARTER. I wish to answer the Senator.

Mr. RAYNER. But you are not answering me.

Mr. CARTER. The power and duty to pass laws regulating elections is based upon the part of the Federal Constitution which this joint resolution proposes to strike out.

Mr. RAYNER. The Senator is wrong. This is not the argument of a lawyer that the Senator presents.

I hope the Senator from Montana is not influenced by what his intimate political friend, ex-President Roosevelt, has said about this amendment. I hope the Senator is not voting for this amendment on the ground that the ex-President has invited him to do it. I want to read an extract from what Mr. Roosevelt said in a speech he made at Grand Rapids within the last few days, in which he advises all of his friends, among them the Senator from Montana, to vote for this amendment. He says:

But the United States should under no circumstances surrender one particle of the control it now has as regards the election of Senators. To do so would be a mistake which might have grave and far-reaching consequences, and absolutely no argument worth heeding can be advanced in favor of such a change.

This is very complimentary to the speech of the Senator from Idaho yesterday.

Mr. CARTER. The views of the ex-President are virile and persuasive always, but I am satisfied that in this case, having made an address to the Senate along the same line some days prior to the Grand Rapids speech, I possibly contributed to his enlightenment on the subject and thus prepared the way for his opinion.

Mr. RAYNER. I hope the Senator will continue to contribute to his enlightenment on the Constitution.

Mr. President, with all the matchless genius of our ex-President, with all his profound knowledge of every subject in the created universe, with all his entire familiarity with every proposition and topic that have ever been advanced from the creation of the human race, if there is one thing on the face of the earth that the ex-President of the United States does not know anything about and needs the enlightenment of the Senator from Montana—either in theory or in practice—it is the Constitution of the United States. [Laughter.]

Mr. President, I now come to the speech of the Senator from Montana. I desire to say this about the speech, that you will have to read it over three or four times before you find out that there is not anything in it. I say this with great respect to the Senator, who is my warm personal friend and whose great ability I admit. The first time you read it it leaves an impression upon you that the Senator is dead in earnest. The second time that you read it you feel that he is a disciple of the great statesman and political philosopher who said that language was used to conceal thought. The third time that you read it the whole legal structure that he has raised dissolves like the fabric of a vision.

Mr. BEVERIDGE. Talleyrand said it.

Mr. RAYNER. I am perfectly familiar with this fact.

Mr. BEVERIDGE. Mr. President—

The VICE PRESIDENT. Will the Senator from Maryland yield to the Senator from Indiana?

Mr. RAYNER. Certainly.

Mr. BEVERIDGE. The Senator from Maryland said a great French philosopher. I merely said sotto voce it was Talleyrand, the diplomat.

Mr. RAYNER. He was somewhat of a political philosopher and statesman besides, and I apprehend the Senator from Indiana has read some of his political and philosophical observations.

Mr. BEVERIDGE. Not as many as the Senator has read. But, now that I am up, may I ask the Senator a question?

Mr. RAYNER. About Talleyrand?

Mr. BEVERIDGE. No; not about Talleyrand. We have passed that; that is water over the dam. But since there is a dispute, in which I am interested, between the Senator from Maryland and the Senator from Montana, I wish to ask the Senator this question: If the power over the elections which the Senator says is in the National Government according to the decision he has read, does not come from section 4, Article I, of the Constitution, from what does it come? Is it an inherent power or what is it? If it does not have its origin in section 4, Article I, what is the source of that power?

Mr. RAYNER. The Senator from Indiana knows perfectly well I am not in favor of inherent power.

Mr. BEVERIDGE. I am not asking what the Senator is in favor of; I am asking from what source this power comes.

Mr. RAYNER. I have covered this point, but I will answer you. I do not believe there is any inherent power in the Constitution of the United States, although the Senator from Indiana does believe that it is full of inherent powers. It arises from a constitutional right. In the language of the Supreme Court, the Constitution guarantees to the States the election of Federal Representatives, and it is in the performance of this obligation of guaranty that it has the right—and I am using the language of the Supreme Court—to pass laws in order to accomplish the Federal right that is vested in it. I can not state it any plainer. I want the Senator from Indiana to understand what I am coming to in a minute. Do not make the fatal mistake of supposing for one moment that the Federal Government is possessed of the right of suffrage.

The Government of the United States has no right of suffrage. Citizens of the United States derive their right of suffrage from the States and not from the Federal Government. But when the Constitution provides for the election of Federal Representatives, using the language in the Seibold case, the Constitution guarantees the exercise of that right and gives Congress the right to pass any enactment that may be necessary to protect it, and the same principle would apply to the popular election of Senators.

Mr. BEVERIDGE. Mr. President—

The PRESIDING OFFICER (Mr. KEAN in the chair). Does the Senator from Maryland yield to the Senator from Indiana?

Mr. RAYNER. Certainly.

Mr. BEVERIDGE. I ask the Senator a question, and possibly the answer to this very question may determine one vote. That is the reason why I am asking it. The Senator from Montana says that the source of this power, which the Senator from Maryland has described in the language of the Supreme Court, is section 4, Article I, of the Constitution. The Senator from Maryland says that that is not the source of the power. Therefore, I ask him what is the source of that power? I am merely asking so that I may know, because if the Senator is right, I do not see any consequence in the Sutherland amendment. I understand the Senator to say that this is a power not inherent, but a power implied from the guaranty of the Federal Constitution concerning the election of Representatives. Is that correct? Is that the source of the power?

Mr. RAYNER. It is not an inherent power.

Mr. BEVERIDGE. I say it is not an inherent power, but it is a power implied.

Mr. RAYNER. It is not an implied power. It is a right guaranteed in the Constitution, because the Constitution provides not by implication, but in express language that—

The House of Representatives shall be composed of Members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature—

And our resolution proposes to provide the same method for Senators.

The right of suffrage is in the States, subject to the limitation that the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the legislature.

The United States Government has nothing to do with the right of suffrage, and I propose, if I can, to answer the Senator from New York upon that point in a moment. But it has guaranteed the right to vote under the suffrages of the State, and guaranteed the right to vote in accordance with the laws of the State. It has the right to protect the right to vote.

Mr. BEVERIDGE rose.

Mr. RAYNER. Please do not make me repeat that again.

Mr. BEVERIDGE. I will not bother the Senator at all.

Mr. RAYNER. You are not bothering me. I never was less bothered in my life.

Mr. BEVERIDGE. I am very glad of it.

Mr. RAYNER. You do not bother me. I will be very glad to have the Senator ask me a question.

Mr. BEVERIDGE. No one could bother the Senator; but I want to ask this question, because the Senator evades it: What is the source of this power? I understand the Senator's position is that this power, which he says exists in the Government of the United States, comes from the language of the Constitution which he has just read. Is that the proposition?

Mr. RAYNER. It comes from what I have just read, as expressed by the court and construed and defined in the Seibold and the Yarbrough cases. I have said this over and over again.

Mr. BEVERIDGE. In the Seibold case, I am asking for the words of the Constitution from which it comes.

Mr. RAYNER. If the Senator will read these two cases he will find that I have simply used the language of the court and not my own. The Senator is familiar with them, I suppose.

Mr. BEVERIDGE. I have read them, but not, of course, with that careful attention the Senator has. But if the Senator objects to the question, "What is the source of this power?" I will not ask him any more.

Mr. RAYNER. I have read them very carefully, and if the Senator will read them he will find out clearly the source of the power. I am not originating the source of power. The Supreme Court is responsible for its own opinions. I do not share the responsibility except to acquiesce in it, as I am compelled to do; and I declare again that the Constitution is behind the elections and has the right to punish crime at Federal elections at the polls by State officials without the Sutherland amendment.

Mr. SUTHERLAND. Mr. President—

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from Utah?

Mr. RAYNER. Certainly.

Mr. SUTHERLAND. The Senator calls attention to section 2 of Article I of the Constitution. I agree with the Senator that that amounts to a guaranty of the right of the voter who has been given the right by State law to cast his vote. Under that provision the citizen who is deprived of his right to vote, a right given him by the State legislature, may maintain a suit in a Federal court. That is quite true. But the Senator will agree with me, I think, that it is quite as important to prevent people who have no right to vote from casting their votes as it is to allow people who have a right to vote to cast their votes.

Does the Senator find in the Constitution any provision, save section 4 of Article I, which will permit the Federal Government to surround the polls in the various States with such influences as will prevent people who have no right to vote from casting their votes, to prevent ballot-box stuffing, to prevent intimidation? Does the Senator find any provision in the Constitution that will enable the Federal Government to do those things, except section 4 of Article I?

Mr. RAYNER. The Senator from Utah, who is a very well informed lawyer, one of the very best in this body, must draw a distinction between appointing Federal officers to see that State laws are observed and appointing boards of registration and boards of certification in violation of the State laws. If the Senator asks me whether the Federal Congress would have the right to appoint a supervisor to see whether the State laws



have been properly executed, I point him to the cases that I have read. Not alone to section 2, because that only applies to Representatives, but to the other sections of the Constitution referred to by the Supreme Court in these cases. If the Senator asks me whether without his provision the Federal Congress could appoint boards of registration to register votes and boards of certification to certify the result contrary to the laws of the State, my opinion is that they have no right to do that either with his provision or without his provision in the resolution. That answers the important question of the Senator from Utah.

Now, Mr. President, let me proceed. The first proposition of the Senator from Montana is that it conflicts with the fifteenth amendment. He says:

It may well be taken for granted that an overwhelming majority of the voters and members of the legislature of a State might favor the election of United States Senators by popular vote and at the same time stand unalterably opposed to the permanent disfranchisement of the colored man in such States as might think proper to deny him a voice in the selection of United States Senators.

I ask any Senator here to arise in his seat and tell me what right we have to disfranchise the colored man. There is no right to disfranchise him. There is no conflict between the resolution as we reported it and the fifteenth amendment.

The Senator from Montana seems to forget what the terms of the fifteenth amendment are. How in the world is there a conflict between a resolution which gives the States the right to determine upon the manner of electing Senators and the fifteenth amendment of the Constitution of the United States? I know the Senator from Utah does not believe there is any conflict between them. One relates to the States, and the resolution relates to something entirely different. The language of the fifteenth amendment we all recall. Senators will not be influenced in their vote by any such suggestion as that.

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude—

Is the language of the fifteenth amendment. I shall show in a moment that there is not a State with its electoral system that is violating this amendment of the Constitution or could possibly violate it if they wanted to violate it. Therefore, Mr. President, there is no conflict whatever between a resolution which gives the States by popular vote the right to determine the manner in which Senators shall be elected and the fifteenth amendment, which says that you can not deprive anyone of his right to vote by reason of race, color, or previous condition of servitude.

Mr. CARTER rose.

Mr. RAYNER. Pardon me a moment and then I will yield. I want to show the Senator from Montana how wrong he is upon almost every point and how one by one the roses fade.

Mr. CARTER. Mr. President—

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from Montana?

Mr. RAYNER. I will.

Mr. CARTER. I would like to enjoy the privilege of puncturing these balloons as they pass.

The PRESIDING OFFICER. Does the Senator from Maryland yield?

Mr. RAYNER. The Senator says he would like to puncture these balloons. The whole speech of the Senator is inflated and I am trying to puncture it as an entirety.

Mr. CARTER. I rather enjoy the Senator's balloons, but he permits them to escape into the air.

Mr. RAYNER. The proper way to do is to wait until I have concluded and then answer the arguments of the Supreme Court—in the airship with me.

Mr. CARTER. I would rather not take them in groups.

Mr. RAYNER. The Senator knows there is no one for whose opinion, outside of the Supreme Court, I have greater respect than I have for his. I therefore, valuing his opinion so highly, continue to read from the Senator's speech:

A State desiring to avoid accountability to the Senate under the fourteenth or fifteenth amendments would of course choose United States Senators at special elections to be held at such times and conducted in such manner as the State authorities might see fit to approve. The right of a person to a seat in the Senate could not be challenged on account of fraud, violence, or corruption at the polls, regardless of the extent to which citizens had been thereby denied equal protection of the laws or the right to vote.

Mr. President, that is not correct. The Senator would not announce a proposition of that sort if he were arguing this case before any intelligent tribunal in the United States, because the right to challenge the election is contained in the Constitution of the United States and is not in conflict with the joint resolution that we have reported.

Now, look at Article I for a minute. Section 5 of that article is:

Each House shall be the judge of the elections, returns, and qualifications of its own Members.

The House is the judge and the Senate is the judge of the election of its own Members, and there is nothing in the joint resolution that conflicts with that provision of the Constitution. Suppose that a Senator were to come here and present his credentials, who had been elected by fraud, intimidation, violence, or corruption, would not the Senate have a right to reject him? Is not that the proceeding which from time immemorial the House of Representatives has adopted? Is it not under this very section that one Representative after another from almost every southern Commonwealth was ejected by the House of Representatives because the House of Representatives under this section decided upon the election?

Mr. NELSON. Mr. President, will the Senator from Maryland yield to me for a moment?

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from Minnesota?

Mr. RAYNER. I do.

Mr. NELSON. Mr. President, when a man comes here with credentials as a Member of this body and we pass upon the question whether he is qualified or has been honestly elected, assuming that we say he has not been honestly elected and is not entitled to his seat, does that fact afford any protection to the voters at the election?

Mr. RAYNER. Of course it affords protection to the voters at the election, especially if you couple with the power to punish fraud, corruption, violence, or intimidation at the polls. I want one thing understood in this discussion, and that is that all these election laws have been swept from the statute book since 1893. In my judgment, there are now no laws of Congress affecting Federal elections, and I hope they will never be reenacted, as the States are fully able to cope with this subject.

Mr. NELSON. Mr. President—

Mr. RAYNER. I must object now to interruption.

Mr. CARTER. Mr. President—

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from Montana?

Mr. RAYNER. In a moment.

Now, Mr. President, I come to the most important point of this controversy, and I want to cite a case to the Senate, which has not yet been cited, that is in absolute conflict with what the Senator from Montana has said. Now listen to the statement and then listen to the case.

Mr. CARTER. Mr. President—

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from Montana?

Mr. RAYNER. Not just now.

The PRESIDING OFFICER. The Senator from Maryland declines to yield, and he has the floor.

Mr. CARTER. At the outset of his remarks the Senator from Maryland invited interruptions, and I am sorry he has changed his mind.

Mr. RAYNER. But not every moment, may it please the Senate. The interruptions should be reasonable. I will yield in a moment.

The Senator from Montana [Mr. CARTER], in his speech, said:

The adoption of the amendment would give substantial though limited national sanction to the disfranchisement of the Negroes in the Southern States. In their disfranchisement we now passively acquiesce, but with this supine attitude some Senators are not content.

Mr. President, I want to read to the Senate the case of *Williams v. Mississippi*. I say to the Senate that the Supreme Court of the United States has decided conclusively that the electoral systems of the South are valid and constitutional, and can not be set aside. I will only read about 10 or 12 lines from that case, and it is a case that ought to have appeared in this debate long ago. In that case the Supreme Court cited the constitution of Mississippi, and said, that notwithstanding the constitution of Mississippi and the reasons the supreme court of Mississippi gave for the adoption of its constitution, that constitution still must stand as valid under the Federal Constitution.

What did the supreme court of Mississippi say in reference to the election laws of Mississippi? I invite the Senator's attention to this proposition. I want to read to the Senator what the Supreme Court of the United States said, but first I will read what the supreme court of Mississippi said:

Within the field of permissible action under the limitations imposed by the Federal Constitution, the convention swept the field of expedients, to obstruct the exercise of suffrage by the Negro race.

And further the court said, speaking of the Negro race:

By reason of its previous condition of servitude and dependencies, this race had acquired or accentuated certain peculiarities of habit, of temperament, and of character, which clearly distinguished it as a race from the whites. A patient, docile people; but careless, landless, migratory within narrow limits, without forethought; and its criminal

members given to furtive offenses, rather than the robust crimes of the whites. Restrained by the Federal Constitution from discriminating against the Negro race, the convention discriminates against its characteristics, and the offenses to which its criminal members are prone.

That is the language of the supreme court of Mississippi. Now, what does the Supreme Court of the United States say?

But nothing tangible can be deduced from this. If weakness were to be taken advantage of, it was to be done "within the field of permissible action under the limitations imposed by the Federal Constitution," and the means of it were the alleged characteristics of the Negro race, not the administration of the law by officers of the State. Besides, the operation of the constitution and laws is not limited by their language or effects to one race. They reach weak and vicious white men as well as weak and vicious black men, and whatever is sinister in their intention, if anything, can be prevented by both races by the exertion of that duty which voluntarily pays taxes and refrains from crime.

Mr. President, this, in conflict with the statement made by the Senator from Montana, practically upholds every electoral system enacted, either by law or by constitution, in every Southern Commonwealth. Now I get to the next proposition, and I will hurry through.

This is my friend's criticism on our joint resolution:

Under the amendment recited in the committee joint resolution there is nothing to prevent a State from electing one person for 10 terms in the Senate or 10 persons for one term each at the same election.

Mr. President, if I did not know that my friend from Montana was a perfectly abstemious and temperate person, in reading these remarks—that we could elect 10 Senators at one time under our resolution, or one person for 10 terms—I would suppose that he was laboring under the delightful influence of some exhilarating beverage that had magnified the horizon of his thoughts and had illuminated with radiant and fantastic figures the field of his constitutional observations. [Laughter.] Under this joint resolution the Senator says we can elect one person for 10 terms or 10 persons for one term, all at the same election.

Then, when the Senator from Idaho [Mr. BORAH] was answering the Senator from Montana, pointing him to the clauses of the Constitution which I have quoted—the fifteenth amendment and to the qualification clause of the Constitution—and asked him to answer, the Senator said:

Mr. President, I will very shortly reach the aspect of the case presented by the Senator from Idaho.

But he has not reached it yet; the Senator has never reached it, and he never will.

Now, let me give the last point in the Senator's argument. I ask the Senator from Montana, with great respect, does he really believe this:

Would not a certificate of election, in due form, when properly certified by the legally authorized officers of the State, be conclusive on the Senate as to all questions save and except those touching the qualifications of the person named in the certificate to hold a seat in the Senate?

Does the Senator really believe that a certificate would be conclusive and that the Senate could not go behind the certificate?

Mr. CARTER. Mr. President—

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from Montana?

Mr. RAYNER. I do.

Mr. CARTER. Under the Constitution as it is, the Senate could go behind the returns; under the Constitution as the Senator from Maryland would have it, the Senate could not go behind the returns.

Mr. RAYNER. Well, I understand that is the statement of the Senator; but what reason on the face of the earth he gives for such an opinion I can not divine.

Mr. CARTER. Mr. President—

The PRESIDING OFFICER. Does the Senator from Maryland yield further to the Senator from Montana?

Mr. RAYNER. Yes.

Mr. CARTER. The Senator from Maryland is well aware of the fact that under the Constitution as it is the Senate does not inquire into the election of members of the legislature of a State; it does not attempt to ascertain whether members were elected by fraud, violence, or otherwise, but accepts the organized legislature as the mouthpiece of the sovereign power. We may inquire into the action of the members of the legislature in connection with the election of a Senator, but when the legislature has been duly organized we can not and do not go behind that organization to ascertain by any inquiry how the members were elected.

Mr. President, in the case here presented, if the sole and exclusive power to fix the time and prescribe the manner of conducting an election in a State is given over to the State, then we must give full faith and credit to the official action of the duly constituted authorities of the State who certify to the result of that election.

Mr. RAYNER. Mr. President, this will not do. We now inquire into the fact whether a Senator has been properly elected by the legislature of his State, and when you change an election from the legislature to the people you have the same right to inquire whether a Senator has been properly elected by the people of the State. The credentials are only *prima facie*. The Senator is in error.

Mr. CARTER. Ah, Mr. President—

Mr. RAYNER. We will be the same judges of the election of Senators by the people that we are now judges of the election of Senators by the legislatures. It requires no further answer than that. To tell me that if a man has been elected by fraud, by violence, by intimidation, or corruption we must, because of the mere fact that he has his credentials from the governor, admit him, and have not any right to inquire into the validity of his election, is a proposition in conflict with this provision of the Constitution and at variance with all the practice from time immemorial in the Senate and in the House of Representatives.

Mr. CARTER. Mr. President, the Senator's argument—

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from Montana?

Mr. RAYNER. Well, not just now, because the Senator can make his own speech in his own time. I would like to go on. It is not necessary for the Senator to make a speech every minute contemporaneously with mine, and I decline to yield.

Mr. CARTER. But, Mr. President—

The PRESIDING OFFICER. The Senator from Maryland declines to yield.

Mr. CARTER. I rise to a question of order, then.

The PRESIDING OFFICER. The Senator rises to a question of order. He will state his question of order.

Mr. CARTER. The Senator in the beginning courted interruptions and questions. At the present moment I am attempting on his invitation to reply to a question propounded, but since the reply makes the Senator wince I will resume my seat.

Mr. RAYNER. Mr. President, I will proceed, leaving the speech of the Senator from Montana, because he seems to be so highly displeased with his own speech and discomfited by it. I will proceed briefly to the argument of the junior Senator from New York [Mr. ROOR] before I conclude. I want to read the colloquy between the Senator from Georgia [Mr. BACON] and the Senator from New York, and I want to see whether I can not convince the Senator from New York that he is wrong in the proposition that he stated in that colloquy. There is no one at the American bar for whose opinion I have a higher respect than I have for that of the Senator from New York; there is no one for whose professional and private and public character I have a greater admiration. I know that in the heat of conflict he is as fair a foe as anyone could encounter, and I believe that if he states a proposition of law and makes what I consider to be a fatal mistake, when his attention is called to it he will retract the statement he has made upon further reflection and an examination of the authorities. Now, let me read just a short colloquy between the Senator from Georgia and the Senator from New York. The Senator from Georgia [Mr. BACON] said:

Mr. President, do I understand the Senator from New York to mean that if the States have now upon their statute books laws which regulate the suffrage in those States, such as the Senator speaks of as "the grandfather clause," though that is simply a term generic in its character which relates to a general class of legislation—does the Senator mean that, with the laws now upon the statute books of the several Southern States, if the proposed amendment of the Senator from Utah [Mr. SUTHERLAND] should be adopted and we should pass the joint resolution to amend the Constitution and it should be ratified by three-fourths of the States, it would then be within the power of Congress, if it conceived that these grandfather clauses as they are called—all the body of laws with reference to the regulations and limitations of the suffrage in the Southern States—if Congress should conceive that they were unconstitutional, does the Senator mean that, in his opinion, Congress would have the power, under the amendment of the Senator from Utah, to annul those provisions and to make Federal laws to control the election of Senators in such way as to insure the right to vote to all persons thought by Congress to be entitled to vote?

Mr. ROOR. Without the slightest doubt.

Mr. BACON. Well, Mr. President, it is well that we are given this notice of what the Senator does mean and what the Sutherland amendment means.

Mr. ROOR. I meant to put you on notice, and I mean to put the whole country on notice if my words are able to do so.

With great deference to the Senator from New York, I say that he is mistaken in the proposition of law, entirely mistaken. He is at variance with the decisions of the Supreme Court, and I will proceed within the space of a very few moments to attempt to demonstrate that he is wrong.

Mr. President, what is that proposition? Let us look at it a moment. Of course I know the Senator from New York is perfectly honest and sincere. I know that the Senator is opposed to the popular election of Senators by the people. He



has said that, and we know it. I do not believe for a moment that he wants the Sutherland amendment put into the joint resolution, so as to obtain votes on our side against it; I believe he is earnestly in favor of the amendment; but he has stated a proposition which, if it were true, would concentrate the whole Democratic vote against the joint resolution. If what the Senator from New York says is true, as earnestly as I am in favor of the election of Senators by the people and as consistently as I have contended for it for 25 years in the House of Representatives, in season and out of season, and in the Senate of the United States, I would never vote for a proposition of that kind with the Sutherland amendment in it. If by putting the Sutherland amendment into the joint resolution you can control the suffrages of the States and change the electoral systems of the South, then that joint resolution will have to pass without my vote. I propose to show that even if it be put into the joint resolution—without binding myself now as to whether I will vote for it or vote against it—it can not possibly have the effect that the learned Senator from New York gives to it.

Now, let me give you a few cases on that subject, and then I am going to conclude very quickly. I quote now from volume 9 of the Federal Statutes, Annotated, page 399:

The Constitution does not define the privileges and immunities of citizens, and the right of suffrage is not one of them. This amendment did not add to the privileges and immunities of a citizen. It simply furnished an additional guaranty for the protection of such as he already had. No new voters were necessarily made by it.

Indirectly it may have had that effect, because it may have increased the number of citizens entitled to suffrage under the constitutions and laws of the States, but it operates for this purpose, if at all, through the States and the State laws, and not directly upon the citizen.

While the right of suffrage is not a necessary attribute of Federal citizenship, it is such an attribute as is exempt from discrimination in the exercise of that right on account of race and previous condition; and while the right to vote in the States comes from the States, the right of exemption from the prohibited discrimination comes from the United States.

The right of suffrage, my friends, is in the States. The right of suffrage is not embraced in the Constitution of the United States. Citizens derive their right to vote, subject to the fifteenth amendment, from the States; and Congress can not, except by a constitutional amendment, change the electoral systems of the South and take away their right to control the suffrage, because those systems, as announced in *Williams v. Mississippi*, are in obedience to the Constitution, and have been upheld by the Supreme Court of the United States.

Therefore, my friends upon the other side of the Chamber will not vote for this Sutherland amendment because, perchance, it may enable them to change the suffrage laws of the Southern States. Whatever your opinion may be upon those suffrage laws—and that is not a question that I propose to discuss now—whatever your opinion may be, because we differ upon those propositions, the Sutherland amendment will never give you the power to change the electoral systems of any Southern Commonwealth. You can not take away the suffrage of its citizens. You can prevent discrimination, but the State is the judge of the qualifications of its electors. A State has a perfect right to adopt a property qualification; a State has a perfect right to adopt an educational qualification; and if it applies to the Negro as well as it does to the white man then it is sanctioned by the Constitution of the United States and by the decisions that have been made in pursuance of it.

Just one more quotation, and then I will finish.

Mr. Guthrie, on the fourteenth amendment—I have a number of cases, but I will read just these two—says:

It has been held that the fourteenth and fifteenth amendments do not of themselves confer the right of suffrage, and that the States are still at liberty to impose property or educational qualifications upon the exercise of that right.

Mr. President, that is settled beyond all question. I submit that the Senator from New York has made a mistake and that nothing we can do here, except through the process of a constitutional amendment, can deprive the States of the right of suffrage, and therefore there is nothing left in the Sutherland amendment except, perhaps, the right, which I, however, deny, to register the votes which must be registered in accordance with the laws of the State and to certify the result under the laws of the State.

You could not, under the Sutherland amendment, register the Negroes of the South in defiance of the laws of the States. Does any Senator here contend that under the Sutherland amendment we would have the right, irrespective of the laws passed by the States in reference to the qualifications, either of property or of education, to register the Negroes of the South? Does the Senator from New York believe that we would have the right to register them by virtue of the Sutherland amendment? Is it

possible that under that amendment we can do anything that we could not do without the amendment? Is it possible, Mr. President, I ask the Senator from New York, that under that amendment we could in the slightest degree interfere with any of the electoral systems in any of the Southern States?

Mr. ROOT. Mr. President—

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from New York?

Mr. RAYNER. Yes.

Mr. ROOT. Does the Senator desire an answer now to the question, or would he prefer that I wait?

Mr. RAYNER. Whichever pleases the Senator from New York. I would rather have it now.

Mr. ROOT. I understand that the provision which authorizes the Congress to make or modify the regulations governing elections in respect of time and place and manner was not an empty form of words, but was included in the Constitution upon grave consideration and for a substantial purpose.

That provision in regard to the election of Members of the House of Representatives it is proposed to continue, and the provision in regard to the Senate it is proposed to destroy by transferring the election from the legislature to the people without also transferring the power of regulation. The purpose for which I suppose these provisions were included corresponds with the purpose that practical observation of elections indicates. The naked right to make laws regarding the exercise of the right of suffrage is practically useless unless there be the power to so arrange the time, place, and manner of the election that the laws can be made practically applicable. The only way ever found by man to compel a fair election is through arranging the time and place and manner of the election beforehand in such a way that the declarations of the law will not be brutum fulmen.

Now, sir, my understanding is that there are certain provisions of the Constitution, in respect of elections, conferring other power upon the Congress. There is the right to judge of the elections and qualifications of the Members of the two Houses, and there are the fourteenth and fifteenth amendments, which relate to the rights of suffrage.

My proposition is and has been from the beginning that the preservation of the constitutional authority of the Congress to arrange the regulations governing elections as to time and place and manner is a necessary condition precedent to the effective exercise of all the other powers.

The Senator from Georgia put a question to the junior Senator from New York the other day predicated upon the proposition that certain laws were found to be, in the opinion of Congress, in violation of the Constitution, and he asked me whether in my view the adoption of the Sutherland amendment would result in Congress having the power to compel a change in or an abandonment of those laws, and I answered him in the affirmative. Now the Senator from Maryland says that I was mistaken, because the laws are not in violation of the Constitution.

Mr. RAYNER. If the Senator from New York will allow me, the Senator from Georgia did not assume that the laws were unconstitutional.

Mr. ROOT. I beg the Senator's pardon. That was the postulate of the question of the Senator from Georgia. The Senator from Maryland will do me the credit to believe that I was not saying gravely to the Senate that the Sutherland amendment would give the Congress the power to reverse and set aside laws which were not in violation of the Constitution.

Mr. RAYNER. The Senator from Georgia said, if Congress should conceive that they were unconstitutional. The Senator from Georgia will not rise here and say that he based his inquiry upon the proposition that they were unconstitutional. He said if Congress conceived that they were unconstitutional, which is an entirely different proposition.

Mr. ROOT. I am not discussing the question whether those laws are or are not, in fact, constitutional. The Congress must proceed in accordance with what it does conceive.

Mr. BACON. Will the Senator permit me?

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from Georgia?

Mr. RAYNER. Certainly.

Mr. BACON. Without taking him from the floor at all. I have not the report of the colloquy before me. I can only state what was in my mind at the time. I sought to direct the attention of the Senator from New York to the contingency of there being a body of law regulating the suffrage upon the statute books of some of the Southern States which, in the opinion of those States, was constitutional, but which, in the opinion of Congress, was unconstitutional. I wished to present the ques-

tion, What would be the power of Congress in the case of that difference in opinion? I think I correctly state it.

Mr. RAYNER. Of course he could not have said that, because if these electoral systems, if the laws were unconstitutional, I submit to the Senator from New York, if they are unconstitutional, then the Supreme Court would set them aside, and they have said in *Williams v. Mississippi* that they are not unconstitutional.

The question I want to put to the Senator is this. Let us get down to the point. My State, for instance, passes a law, we will say, with a property qualification in it that no man who does not have \$500 worth of property shall have the right to vote. Let us say we pass such a law—that no citizen of Maryland shall have the right to vote who does not own \$500 worth of property. Say that the overwhelming majority of the Negroes in the State do not own \$500 worth of property. If the Senator wants it, we will say that none of them own \$500 worth of property. Would such a law be constitutional or unconstitutional? Could we, under the Sutherland amendment, pass a law depriving Maryland of the right to pass such a law? That is what I am concerned about.

Mr. ROOT. Certainly not; because I do not think the law would be unconstitutional. If the Congress conceived it to be unconstitutional, then it could. If they were right in conceiving it to be unfair—

Mr. RAYNER. But suppose they were wrong.

Mr. ROOT. Then they could not.

Mr. RAYNER. Is not the Supreme Court the arbiter?

Mr. ROOT. It is.

Mr. RAYNER. That is all. Then the Senator's statement, in answer to the Senator from Georgia, was a little hasty, I think.

Mr. ROOT. No; my statement was absolutely correct in answer to the Senator from Georgia.

Mr. RAYNER. But it was based upon the proposition, as the Senator says, that the law was unconstitutional.

Mr. ROOT. Certainly.

Mr. RAYNER. And the Senator from Georgia says he did not make that statement.

Mr. ROOT. Mr. President—

Mr. BACON. If the Senator from New York will pardon me. What I endeavored to say was this: Of course, there would have been no question if it had been based on the assumption that the law was unconstitutional. My question was based on the assumption that in the opinion of the States it was constitutional and in the opinion of Congress it was unconstitutional; and what, under the Sutherland amendment, I inquired of the Senator from New York, would, in his judgment, be the power of Congress in such a contingency, which I suppose the Senator understands.

Mr. ROOT. I understand it.

Mr. RAYNER. Mr. President, there is no doubt about the proposition that Congress can not change the right of suffrage in the States, Sutherland amendment or not.

Is there any Senator here now, let me ask, because I want to be fair about this—I am not arguing this as a partisan, I am arguing it as a lawyer—is there any lawyer in this body who will rise and say that by law we can take away from the States the right of suffrage?

Mr. ROOT. May I ask the Senator a question?

Mr. RAYNER. Certainly.

Mr. ROOT. Does the Senator mean his proposition to cover a case in which the franchise is established in the State by laws that are in contravention of the provisions of the Constitution?

Mr. RAYNER. Undoubtedly not. That is where the difficulty occurs between us. If the State laws are unconstitutional, the Supreme Court will set them aside. But in *Williams v. Mississippi*—I do not know whether the Senator was in the Senate when I quoted the decision—the Supreme Court held that the laws of Mississippi were constitutional, and that they did not operate as a discrimination under the fifteenth amendment. Let me read it for the benefit of the Senators who have just returned to the Chamber—from One hundred and seventieth United States. That is the case upon which we in Maryland have framed our franchise laws. This is the case we followed. Now, are we right in following a decision of the Supreme Court of the United States or are we wrong? That is the question. Here is what the convention in Mississippi did. What is the use of talking about the unconstitutionality of these electoral systems when the Supreme Court says this? What stronger language could you devise to bring before the Supreme Court the question whether the electoral systems of the South are valid or invalid; whether they are constitutional or unconstitutional?

Listen for a moment to the language of the supreme court of Mississippi and the language of the Supreme Court of the United States. The supreme court of Mississippi says:

Within the field of permissible action under the limitations imposed by the Federal Constitution, the convention swept the field of expedients to obstruct the exercise of suffrage by the Negro race.

That is not my language. That is the language of the supreme court of Mississippi, approved by the Supreme Court of the United States.

By reason of its previous condition of servitude and dependencies this race had acquired or accentuated certain peculiarities of habit, of temperament, and of character which clearly distinguished it as a race from the whites. A patient, docile people; but careless, landless, migratory within narrow limits, without forethought; and its criminal members given to furtive offenses, rather than the robust crimes of the whites. Restrained by the Federal Constitution from discriminating against the Negro race, the convention discriminates against its characteristics and the offenses to which its criminal members are prone.

The characteristics of the race will apply to the white race just as well as to the Negro race. Now, what does the Supreme Court say?

But nothing tangible can be deduced from this. If weakness were to be taken advantage of, it was to be done "within—"

Quoting the language of the supreme court of Mississippi—

"within the field of permissible action under limitations imposed by the Federal Constitution," and the means of it were the alleged characteristics of the Negro race, not the administration of the law by officers of the State.

What is the use of our discussing this proposition here? Here is the Supreme Court of the United States that has affirmed the constitutionality of these electoral systems. This case has been brought to the attention of the Supreme Court over and over again, and they have declined to reverse it. We have now a case from Maryland that has gone to the Supreme Court, and I apprehend that they will again decline to reverse it, and that they will never touch an electoral system of a Southern State, because the Southern States do not disfranchise the Negro. They can not disfranchise the Negro as such. They can not discriminate against the Negro, and the laws that they pass, whether it be a property qualification or an educational qualification, apply to the characteristics of the white race just as well as to the Negro.

The sum and substance therefore of my argument is this:

First. The Sutherland amendment is not necessary to punish fraud, violence, or intimidation at the polls at Federal elections.

Second. Under the Sutherland amendment efforts might be made by a partisan Congress to appoint boards of registration and certification to supersede the boards of registration and certification appointed by the State. If these boards, however, acted in defiance of the laws of the State and registered voters who had no right to be registered under the laws of the State, then the law of Congress would be void, and you do not want to confer upon Congress the power to pass a law which would be declared to be unconstitutional by the courts. If these boards of registration and certification acted in accordance with the laws of the State, then there is no practical necessity for the Sutherland amendment, as the State regulations are sufficient. In other words, I admit that under the Sutherland amendment an attempt might be made to pass another bill similar to the force bill, but I deny the constitutionality of the force bill.

Third. No legislation can be enacted under the Sutherland amendment to deprive the States of their right of suffrage. Therefore the appeal to Republican Senators to vote for the Sutherland amendment in order to change the electoral systems of the Southern States should not prevail. The right of suffrage subject to the fourteenth and fifteenth amendments is in the States, and we can not take away the right of suffrage from the States except by a constitutional amendment that shall expressly so provide.

In conclusion, Mr. President, let me say one word and I have finished.

You do not want, Senators, if you could, to interfere with right of suffrage and the supremacy of the white race in the South. You do not want the people of nearly every southern Commonwealth placed under the yoke of ignorance and a representation in the Senate that would disgrace it. I am confident that you want the education and the culture and the refinement of its citizenship to honor and adorn this Hall as it does now. The South can not stand any interference with its election systems that have been pronounced to be constitutional and valid by the Supreme Court of the United States. You will not, I am sure, disturb her institutions or the autonomy of her governments. You will not attempt to give the Federal Government the right to interfere with the system that these States have adopted, and which is now in strict obedience to the Constitu-



tion, working for the best interests of the country. You dare not confer upon Congress the power to renew legislation which has now lain dormant and dead for years, and which there is no necessity to reenact. Senators, you will realize that it is for your own welfare, and for the welfare of the States you represent, and for the welfare of the Union that the South, in view of the overwhelming problem that confronts her, should maintain her institutions free from invasion. I am not actuated by partisan motives, I am looking to the common interest of our common country when I say to you to keep your hands off the pillars of her temple. It has been suggested here that the Southern States are violating the organic law of the land. With great respect such a proposition as I have shown is impossible and absurd. If you will permit them to work out their own destiny in exchange for that privilege, it would be safe to guarantee that they would never falter in their allegiance to the Constitution, and if the emergency should ever arrive, they would vie with every other section of the Union to defend it with all their hosts and all their honor, and see to it that against foes from within and without it shall forever remain inviolate in all of its parts, and that no sacrilegious hand shall ever blast or hew it down.

Mr. CARTER obtained the floor.

Mr. NELSON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	Crawford	Kean	Smith, Md.
Bankhead	Culberson	La Follette	Smith, Mich.
Beveridge	Cummins	Lorimer	Smith, S. C.
Borah	Curtis	McCumber	Smoot
Bourne	Davis	Martin	Stephenson
Brandegee	Depew	Nelson	Sutherland
Briggs	Dillingham	Oliver	Swanson
Bristow	du Pont	Page	Tallaferro
Brown	Fletcher	Paynter	Taylor
Bulkeley	Flint	Penrose	Thornton
Burnham	Frazier	Percy	Tillman
Burrows	Gallinger	Perkins	Warner
Burton	Gamble	Piles	Warren
Carter	Gore	Rayner	Watson
Chamberlain	Gronna	Richardson	Wetmore
Clapp	Guggenheim	Root	Young
Clark, Wyo.	Heyburn	Scott	
Clarke, Ark.	Johnston	Shively	
Crane	Jones	Simmons	

The PRESIDING OFFICER. Seventy-three Senators have answered to their names. A quorum is present. The Senator from Montana will proceed.

Mr. CARTER. Mr. President, it is not my purpose to detain the Senate any considerable length of time on this joint resolution. I am impelled to again trespass on the patience of the Senate because of the confusion which I conceive has been created by the manner of the presentation of the opposition to the pending Sutherland amendment.

When this Government of ours was formed under the Constitution it was made to consist of three distinct departments, the executive and the legislative departments being elective and the judiciary appointive. It was not intended that the Government should ever become dependent for its continued existence on the will of any one of the States or any number of the States. Due regard was paid to the election of presidential electors by the provision authorizing the Congress to fix the date for the election of the electors and the hour at which electors would be required to meet to register their choice. The two Houses of Congress were to constitute the legislative authority under the Constitution, and it was clearly the intention of that instrument to remove these two Houses from the possibility of destruction to any extent by any State or any number of States.

Hence, it was provided in section 4 of Article I that while the States might make regulations as to the time, place, and manner of electing Members of the House of Representatives, and as to the time and manner of electing Senators, the power was reserved to the Congress to make on its own account entirely independent regulations governing the election of its Members or to alter or change the regulations made by the States at its will. It is evident that this was a wise precaution, because the continuance of each body or branch of the Congress is essential to the perpetuity of the Congress itself.

Now, it is proposed by the joint resolution to leave full power and authority in the Congress to prescribe the place, time, and manner of holding elections of Members of the House, but to pass to the States the sole and exclusive power to determine the place, the time, and the manner of electing Members of the Senate. The Congress will have full and plenary power as to the Members of the House and no power at all as to the election of Senators should this joint resolution ultimately become a part of the Constitution of the United States.

There are Senators who believe that the want of this power might in contingencies not now perceivable imperil the very life of the Congress itself. Heretofore the exercise of this power has operated to preserve the Congress to a certain extent. It has brought uniformity into elections. It has secured regularity in returns. It has, in short, contributed to the perpetuity of the legislative branch of the Government.

There is no demand among the people of the United States anywhere discernible to transfer this power from the Federal Government to the respective States to be exercised according to their sweet will. In none of the organs through which public sentiment finds expression can anyone point to a claim, or a suggestion of a claim, that the power had been abused, and therefore should be abdicated by the Federal Government and transferred to the care, keeping, and exercise of the respective States.

There came in here, in conjunction with a resolution to submit the question of electing Senators by a direct vote of the people, a proposal to also change the Constitution in another essential particular by transferring this power, which has always resided in the Congress, over to the respective States in so far as the election of Senators of the United States may be concerned. And now those who oppose that transfer of power, those who believe that the right to control the election of its Members is a necessary power in Congress or a legislative body of any sort, are charged with trying to interject the color question into this debate. It may be that the color question evolves from the situation, but, Mr. President, the primary question is, Shall we by our vote aid in making the Senate of the United States the only elective legislative body in the world incapable of having any voice whatever, directly or indirectly, in fixing the time, the place, or directing the manner in which the election of its Members shall proceed?

I assert now that there is not in Christendom an elective legislative body devoid of power to control and direct the election of its own members. That power attaches to every State legislature. It attaches even to the town councils of the country. It is a power necessary to guarantee the perpetuity of the body itself.

The color line, interjected by whom? Who called for this particular part of the joint resolution? Certainly not those who oppose its acceptance. This feature came unbidden, attached to the proposal to elect Senators by a direct vote of the people as a rider. It came from the Committee on the Judiciary, and now, forsooth, we are advised that because we think that this power should be preserved to the Congress we are interjecting the color question into this debate!

Mr. President, unquestionably this particular feature of the Constitution which it is proposed to strike out of the instrument, this particular power which it is here proposed to transfer to the exclusive control of the States, is now and has been the basis of all the effective legislation passed by the Federal Government for the protection of the ballot against fraud, violence, and corruption.

It has been the basis of legislation which has proven beneficial at the North as well as at the South.

But Senators say the power exists to prevent fraud and violence without this particular article of the Constitution or this section of the first article. I pray, if the power exists, why is it desirable to strike down this particular section? Why, if the power exists in the Federal Government, can you subserve any good or useful purpose by transferring a part of it to the States?

A Senator on yesterday afternoon claimed that the Yarbrough case had naught whatever to do in the mind of the court with legislation based on the constitutional provision being considered.

Mr. President, in 1870 Congress enacted a law to enforce the rights of electors in the respective States. That law was amended in 1871, and out of that law as amended a great volume of litigation and adjudication has proceeded. The first case was that cited by the Senator from Maryland [Mr. RAYNER] this morning. It was the case of *ex parte Siebold* coming from the State of Maryland. That case arose out of the construction and application of the statute of 1870, which was passed under and by virtue of authority reposed in Congress by section 4 of article 1, which the joint resolution would strike from the Constitution of the United States as far as the Senate is concerned. The very opening phrase of the opinion of the majority of the court in that case proceeds thus:

There is no declaration that the regulation shall be either wholly by the State or wholly by the Congress. The court holds that this regulation may be in part the adoption of State law and in part the application of a national law to a Federal election.

In the Yarbrough case which followed—and I will not hold the Senate to read at great length—on page 661 of the opinion, the court proceeds to comment at length upon the doctrine laid down in the Seibold case, and affirms it as the fixed law of the land, fixed by the judgment of the Supreme Court of the United States.

Now, Mr. President, comes the Senator from Idaho [Mr. BORAH], supplemented by the Senator from Maryland [Mr. RAYNER], with this curious proposition. Ample power exists without this particular clause of the Constitution.

The Senator from Idaho averred that the clause was practically surplusage in the Constitution, and as surplusage it should be stricken out; that we can transfer the power to the State and still retain it. Paradoxical as that may appear, it is the position taken. If this clause of the Constitution contains no power and vests none in the Congress, then we will not transfer any power to the States.

Ah, Mr. President, it is known—and well known, too—that this power to regulate elections is the vital power in the Constitution, through which due and wholesome regard for the fifteenth amendment and the fourteenth amendment may be enforced.

But it is suggested that the Senate might in a given case, notwithstanding the passage of the joint resolution and its final adoption by the States, inquire into fraud, corruption, and violence at the polls. Let us inquire into that for a moment. Bear in mind that every decision which has been quoted in the course of this debate emanating from the Supreme Court of the United States is a construction of the Constitution as it is now.

I desire to direct attention to the construction as the Constitution would be if this joint resolution should finally become a part of the Constitution. We would be confronted with this state of affairs: A Senator is elected from a nameless State. He comes here with credentials in due form, certified by the secretary of state or other officer commissioned to certify. The returns, certified by him to have been regular, show that John Doe was duly elected a Senator of the United States to represent that State for a term beginning on a certain day. Undoubtedly full faith and credit would have to be yielded to this act of the duly constituted authority of the State. This certificate would be accepted for what it purported to certify. But, says the Senator, we could go back of that certificate and inquire whether fraud, violence, or corruption had obtained at the polls; whether a man had in truth and in fact been denied the right to vote on account of race, color, or previous condition of servitude.

Let us see. That we could do now. Undoubtedly we can do that as to Members of the House of Representatives. But, Mr. President, by a solemn act initiated in the two Houses of Congress and passed out to the States for their action, we here propose to change this fundamental law and transfer to the States, without any accountability to anyone, the sole and exclusive right to fix the time, determine the place, and prescribe the manner in which a Senator of the United States shall be elected.

Thus we divest the Federal Government of the power upon which the Supreme Court decisions have heretofore been based and transfer that power to the sole and exclusive jurisdiction and control of the States. Then how can you, after the Constitution has so vested exclusive power in the States, assume to exercise any supervision over the election through the National Government? That amendment would conclusively estop the Congress from raising any question as to how the election was conducted, the time fixed for it, or the place at which it was held. The right of supervision being destroyed, we would be driven to those vague and indefinite powers of the Constitution to which the Senator from Idaho and the Senator from Maryland refer as affording some protection to electors.

There is no serious contention about the principles of law involved in the matter before the Senate. We admit, to start with, that the fifteenth amendment did not confer the suffrage on any man; we admit that the States have the right under the Constitution to regulate the exercise of the right of the elective franchise and to prescribe the conditions under which persons may vote. A voter must have the qualifications prescribed for a member of the most numerous branch of the legislature. We may inquire whether voters, those qualified, were permitted to vote for Members of Congress, but we can not extend the franchise in the respective States. We can, however, invoke the power of the Constitution where a State has denied a citizen the right to vote because of race, color, or previous condition of servitude. We will assume that he is so denied the right. The Senator from Idaho contends that he has ample remedy. I contend that under the authorities he is relegated to an ac-

tion at law to recover damages for the injury inflicted upon him, and, if this amendment is made to the Constitution, there will be no power in the Congress of the United States to redress the wrong by denying to the beneficiary of the wrong the privilege which he seeks of becoming an active Member of this body.

Mr. CUMMINS. Mr. President—

The PRESIDING OFFICER (Mr. GALLINGER in the chair). Does the Senator from Montana yield to the Senator from Iowa?

Mr. CARTER. I do.

Mr. CUMMINS. Mr. President, if it will not embarrass the Senator from Montana, as he seems to be about passing to another phase of the case, I want to clearly understand whether it is his opinion that the act of 1870 as amended by the act of 1871 is founded upon section 4 of Article I, or whether it is also founded upon other parts of the Constitution.

Mr. CARTER. Mr. President, in so far as the acts referred to prescribe the manner and the machinery for conducting an election and preventing fraud, violence, or corruption, the legislation is founded wholly and exclusively on section 4 of Article I. Incorporated in a number of these acts were such provisions as that to which the Senator from Idaho referred yesterday, section 5520 of the Revised Statutes, relating to conspiracy between two or more persons to do or not to do certain things or to interfere with the rights of others or the Government's rights. That, I think, was embraced in the act of 1871, intended to enforce the rights of citizens under the fourteenth amendment. It does not appear in the Revised Statutes just as it was written in the original text of the act referred to, but the substance is there, the phraseology having been changed by the compilers.

Mr. CUMMINS. Then I gather from the answer just made by the Senator from Montana, that a part at least of the act of 1870 as amended in 1871 finds its constitutional authority in other parts of the Constitution than section 4 of Article I, and I should like to ask him, for I have a great desire to know precisely what his view is, if the following section—and I take it at random—is founded upon section 4. I refer to the first section of the Revised Statutes with respect to crimes against the elective franchise:

SEC. 5506. Every person who, by any unlawful means, hinders, delays, prevents, or obstructs, or combines and confederates with others to hinder, delay, prevent, or obstruct, any citizen from doing any act required to be done to qualify him to vote, or from voting at any election in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be fined not less than \$500, or be imprisoned not less than one month nor more than one year, or be punished by both such fine and imprisonment.

Where does the Senator from Montana find the constitutional authority to declare what I have just read as a crime against the United States?

Mr. CARTER. Mr. President, there are certain inherent powers in a Government not traceable to specific constitutional authority. For instance, no specific constitutional warrant can be pointed out for the passage of an act of Congress prescribing punishment for the crime of burglary; no specific authority can be pointed out in the Constitution for the passage of an act of Congress defining and punishing grand larceny on an Indian reservation. There are a thousand and one appropriate realms of legislative activity which grow out of and find their basis in the inherent powers of a sovereign Government. I do not recall the exact time of the passage of the section referred to by the Senator from Iowa.

Section 5520, referred to yesterday afternoon by the Senator from Idaho, was traced with some difficulty, because in the codification the compilers changed the phraseology. It required close reading to locate the original in the Statutes at Large.

Mr. CUMMINS. The compilers did a little more than that. They separated the administrative features of the act of 1870 from the penal features of the act, and put one under the head of "The elective franchise" and the other under the head of "Crimes against the elective franchise." But I agree that the act of 1870 contains some provisions which would not have been constitutional had it not been for section 4 of Article I, but a large part of it would have been constitutional even though section 4 never had been put into the Constitution. I had hoped, and I still hope before he has finished that the Senator from Montana will point out those parts of this regulatory act which, in his opinion, are founded upon section 4, and section 4 alone, and segregate those parts from the statute which rests upon broader foundations of the Constitution, so that we can intelligently view the necessity of this provision with regard to the election of Senators.

Mr. CARTER. Mr. President, without undertaking to return to the Statutes at Large to trace through the various provisions with the modifications thereof in the Revised Statutes, I can



answer the Senator, I think effectively, by saying that every part of the act of 1870 as amended by the act of 1871, which referred to the times, places, and manner of conducting an election and which prescribed penalties and punishment for interfering with officers of the United States in the discharge of their duties under the act found sole authority in section 4 of Article I, and I aver that, without that section of the Constitution, no authority would exist to appoint registration agents, to appoint election officers in a State, or to in any manner regulate the election, and particularly where by a solemn act, Congress and the States cooperating together, transfer power over the election to the States exclusively.

Mr. President, my contention is that the fifteenth amendment would not be repealed, its phraseology would not be modified, nor would the fourteenth amendment to the Constitution be in any way changed by the adoption of the amendment limiting congressional power as here proposed; but what I do contend is that the transfer of this power to regulate elections from the Federal Government to the States would remove the most potent agency under the control of Congress for the enforcement of the rights of citizens in the exercise of the franchise under the laws of the States. We are not left without authority upon this, as I said yesterday. In *James v. Bowman*, found in One hundred and ninth United States, page 127, it was finally determined by the Supreme Court that the prohibition of the fifteenth amendment applied not to private, but only to State action. Therefore the court held that an act of Congress was void which provided for the punishment of individuals who by threat, bribery, or otherwise should prevent or intimidate others from exercising the right of suffrage as guaranteed by the fifteenth amendment.

After reviewing the manner in which the prohibitions of the fifteenth amendment have been judicially construed, the court holds:

These authorities show that a statute which purports to punish purely individual action can not be sustained as an appropriate exercise of the power conferred by the fifteenth amendment upon Congress to prevent action by the State through some one or more of its official representatives.

Therefore, if the fifteenth amendment can not be enforced as to private wrongs or if the redress of private wrong is without remedy and only the State can be held to accountability, we are driven back to the right of the Government under section 4 of Article I to enforce respect for those rights at the polls by proper laws and regulations and the designation of officers to execute them.

Mr. BORAH. Mr. President—

The PRESIDING OFFICER. Does the Senator from Montana yield to the Senator from Idaho?

Mr. CARTER. Certainly I do.

Mr. BORAH. I stated to the Senator from Montana yesterday that I would refer to the *Bowman* case, but I did not have it upon my desk, and I was unable to do so. I should like, before he leaves it, to call the attention of the Senator to what I intended to call attention to in that case.

Mr. CARTER. I will be glad to have the Senator do so.

Mr. BORAH. I recognize the fact that the action under the fifteenth amendment and the fourteenth amendment must be action upon the part of the State, but in the closing part of this decision we find this language:

We deem it unnecessary to add anything to the views expressed in these opinions. We are fully sensible of the great wrong which results from bribery at elections, and do not question the power of Congress to punish such offenses when committed in respect to the election of Federal officials. At the same time it is all important that a criminal statute should define clearly the offense which it purports to punish, and that when so defined it should be within the limits of the power of the legislative body enacting it. Congress has no power to punish bribery at all elections. The limits of its power are in respect to elections in which the Nation is directly interested, or in which some mandate of the national Constitution is disobeyed, and courts are not at liberty to take a criminal statute, broad and comprehensive in its terms, and in these terms beyond the power of Congress, and change it to fix some particular transaction which Congress might have legislated for if it had seen fit.

The reference to the power of Congress to punish offenses when committed in respect to the election of Federal officials, I take it, is regardless of whether he is a Member of Congress or an elector for President.

Mr. CARTER. Mr. President, as the only Federal officers elected are the electors for President and Members of Congress, I assume that it could only apply to them.

Mr. BORAH. As in one case the manner is prescribed by the State and as in the other the manner is prescribed by the legislature, the point which I wished to make was that that power exists outside of the proposition that the manner is prescribed by either one of these bodies.

Mr. CARTER. Mr. President, I think that the confusion in the application of the authorities arises from the consideration

of the Constitution as it was when the opinions were delivered and as it is to-day, omitting to take into account the vital and essential point that the decision would in each case have been different if the constitutional provision had been different. Who believes that the *Siebold* case would have been decided as it was if the Constitution read as this proposed amendment contemplates it shall read—that the sole and exclusive power to regulate senatorial elections shall be vested in the States? The adjudication would have proceeded upon a different theory; the adjudication would have been based on a different constitutional provision, and therefore the argument that the court held this or held that under the Constitution as it is casts no light upon what the court would hold under the Constitution as it is proposed to make it.

Mr. CUMMINS. Mr. President—

The PRESIDING OFFICER. Does the Senator from Montana yield to the Senator from Iowa?

Mr. CARTER. I do.

Mr. CUMMINS. Mr. President, it seems to me that the argument of the distinguished Senator from Montana either proves too much or too little. I put to him this case: Suppose that in any community, either of the South or of the North, a band of conspirators should undertake to prevent by force a certain number of electors from casting their votes or from going to the polls at all; or, if not by force, then by intimidation; or, if not by intimidation, then by fraud, does the Senator from Montana desire the Senate to believe that Congress has no power to make such conduct an offense and crime against the United States? I am sure that he will not so assert; and, presuming that the answer will be in the negative, where does the power reside in the Constitution to declare such conduct a crime? It is certainly not in section 4 of Article I, because it would have no relation whatever to holding an election. I am putting the case in which private individuals prevent other private individuals from exercising their franchise—it may be at a distance of miles from the places or place appointed by law for casting the votes or holding the election.

Mr. CARTER. Mr. President, the Government of the United States as a sovereign power has the right to protect its citizens in their rights at home and abroad. That may be stated as a general proposition. The great difficulty, as is well known, arises in the employment of efficient instrumentalities for the protection of men in their right to vote, and vote freely, at popular elections. If two or more persons conspire together, they can be held accountable of course under the conspiracy act for doing that which is unlawful in preventing a citizen by unlawful means from doing that which he has a right to do.

Mr. CUMMINS. It would be applicable to the individual as well.

Mr. CARTER. And the Supreme Court has held—and I think held correctly—that—

The authorities show that a statute which purports to punish purely individual action can not be sustained as an appropriate exercise of the power conferred by the fifteenth amendment upon Congress to prevent action by the State through some one or more of its official representatives.

The individual denied that right is left to apply to a court for damages.

Now, Mr. President, let us illustrate. The Senator from Maryland has announced that the Supreme Court had approved or tolerated certain devices and contrivances in constitutions and laws to prevent the negro from voting. The negro is not named in one of them; there is no apparent pretense that he is denied the right to vote on account of race, color, or previous condition of servitude, because there is no reference to race, color, or previous condition of servitude in the constitution or the law of any State; but the inevitable and intended result is the disfranchisement of the black man.

How is it done? An educational test is applied. One man is expected to read a section of the Constitution of the United States. He may be an illiterate white man. He is coached the night before, and the election officer requests him to read the first line—"We, the people of the United States." That settles it as to the white man. Up comes a black man, and that black man is required to recite from memory the twelfth amendment. He is required to pass an examination on the Constitution that no lawyer in the Senate could pass; and, failing, he is denied the right to vote. Then comes the grandfather clause, which excludes him even if he passes the educational test.

Mr. BORAH. Mr. President.

The PRESIDING OFFICER. Does the Senator from Montana yield to the Senator from Idaho?

Mr. CARTER. Certainly.

Mr. BORAH. Does the Senator from Montana contend that there is no remedy for that except under section 4 of Article I?

Mr. CARTER. Mr. President, I answer that the power most efficient at the disposal of Congress is based on section 4, Article I, and that it is a cruel wrong to the Federal Government and the citizens who look to it for protection to strike down that constitutional provision.

Mr. BORAH. The Supreme Court has held in the case of *Yick Woo*, One hundred and eighteenth United States, that, although the law may be perfectly fair upon its face, yet, if it admits of unfair execution, it comes within the fourteenth amendment.

Mr. CARTER. Very well. Now, Mr. President, an election for Senator was held four years ago, we will say, in a State. The evidence is scattered; the United States had no witness there; under the proposed amendment it could have no officers there; it could exercise no supervision over the polling places or the manner of administering the State law. Under the proposed amendment Congress could not make any provision to have any representative of the Federal Government present to see that even the State law was fairly administered. Why deprive the Government of that privilege? Is citizenship and the right to exercise the voting privilege so cheap that we will voluntarily abdicate all right to protect it? If, as a matter of fact, this provision of the Constitution is merely surplusage, I may, I think, with propriety inquire why this vigorous attempt to strike it out of the Constitution? If this provision is so thoroughly innocuous, why this long-continued effort to get rid of it and transfer the sole power in these matters over to the State? These questions will not be answered.

Mr. President, this rider was attached to the resolution proposing to submit a constitutional amendment for the election of Senators by the people as a conveyance to get the main question before the Senate. It is being urged here as a means of getting the main resolution through the Senate. It is believed that without this rider, emasculating the power of the Federal Government to continue the life of this Senate, the resolution will not pass. From my point of view it is better far to endure those ills that proceed from legislative efforts—and futile ones often—to elect Senators than to open the way for the destruction of the Senate itself at some future time.

I concede that in the placid days through which we are passing there is no pressing need for a vigorous exercise of the power of Congress to control the elections of Senators or Members of the House of Representatives; but the centuries will bring curious conditions of which we now can have little conception. The last century brought a mighty crisis to this country; the present may have in store more difficulty than the century which has passed.

It was the intention of the framers of this Government that it should have the power of self-preservation. The moment the right to control the election of Members of either House of Congress passes from the Congress its life is thenceforward and forever to be subject to the whim of the respective States. It was this infirmity in the original Articles of Confederation that led to a Government which merited the just contempt of mankind. It could not meet its obligations; it was a beggar at the door of every State legislature; it could not discharge the functions of a sovereign Government, taking its place among the nations of the earth. Our forefathers knew of the infirmities of that system, and they intended that this Constitution should forever guard the new Government against them.

One of the most important and inestimable powers of the Constitution was the power given to the Congress to protect the election of its own Members against fraud, violence, and corruption. Under this authority the Congress may set aside the laws of any State relating to Federal elections; it may provide election officers of its own if need be. The courts will punish the officers of the State for violating the law of Congress in relation to an election, and the efficiency of the system may be regarded as thoroughly proven by the test of time.

Take this power away and the life of the Senate is left at the will of the States. Is it wise to make this needless and uncalled for departure? Again I ask, is it fair to the electors of the country or to the legislatures to hand them two propositions to pass upon at the same time—two propositions not correlated; one called for by widespread expression; the other never called for at all? In county conventions, in local papers, and in papers of general circulation, in State conventions and national conventions of all parties the election of Senators by a direct vote of the people has been thoroughly considered. It was one of the means presented in the constitutional convention for the selection of Senators. There can be no doubt of the fact that the public mind is prepared for the submission of that question; no doubt it will be debated intelligently and forcibly throughout the States. But how can it be decided fairly and squarely if the States of the Union must at the same time and

by the same ballot in legislatures or at the polls pass not only on the question of electing Senators by the people, but likewise upon a question which imperils the life of the Federal Government itself, upon a proposal to deprive the Congress of the country of the right under any and all circumstances to see that the Members of the Congress are elected without fraud, violence, corruption, or threats of any kind?

But, Mr. President, it is claimed that we inject the color line, and since that color line was presented by the Senator from Idaho [Mr. BORAH] so fearlessly yesterday afternoon, I think it well to give it a moment now. He inquires, if the Sutherland amendment is voted upon favorably, if in other words we elect to leave the Constitution in that particular as it is, who will to-morrow introduce a bill providing for the enforcement of the rights of the blacks in the South? I answer that I believe no such bill will be introduced.

But I answer further and say that the temper of this hour may not continue forever. I would not deprive the future Congresses of the right to proceed to enact laws if the exigencies should justify or require their enactment. If, forsooth, because no one wishes to present a bill to-day, should we from that fact reach the conclusion that nobody should ever be permitted to present a bill of any kind or character for the relief of citizens who are deprived of the right to vote?

Mr. President, we are not now disposed to interfere with the perplexing political and social conditions confronting the people of the South. Nor are we disposed to say that these conditions shall crystallize into a confirmed habit, so that the men who were freed by the proclamation of emancipation shall be forever deprived of the right to vote or express a voice in matters relating to the conduct of their Government.

Mr. RAYNER. Will the Senator from Montana allow me? He interrupted me about sixteen times, and I just want to ask him one question.

Mr. CARTER. I am delighted to have the Senator interrupt me.

Mr. RAYNER. Suppose a State should decline, with the Sutherland amendment in, to send any Senator to the Senate of the United States; does the Senator from Montana think there is any way for us to force a State to elect a Senator?

Mr. CARTER. Under the Constitution as it is and as it will be as to the election of Senators by the people in case this constitutional amendment should become a part of the organic law there can be no doubt that the Congress can order an election in any State as to Members of the House of Representatives; and if a State fails to hold an election in any district or throughout the entire State for Members of the House of Representatives, the Congress of the United States may by law provide the time and place and the manner for conducting such elections in that State without asking its consent or without awaiting from the State any expression of either assent or dissent.

Mr. RAYNER. Mr. President—

The VICE PRESIDENT. Does the Senator from Montana yield further?

Mr. CARTER. I do.

Mr. RAYNER. In a great debate, one of the greatest debates that ever took place on this floor, between Webster and Calhoun, the proposition was conceded that with the Sutherland proposition in the Constitution as it now is there was no way whatever to compel a State to elect a Senator. Let me read just a few lines—the Senator interrupted me a number of times—what Mr. Webster said on the question:

I hear it often suggested—

He said—

that the States, by refusing to appoint Senators and electors, might bring this Government to an end. Perhaps this is true; but the same may be said of the State governments themselves. Suppose the legislature of a State, having the power to appoint the governor and the judges, should omit that duty, would not the State government remain unorganized? No doubt, all elective governments may be broken up by a general abandonment on the part of those intrusted with political powers, of their appropriate duties.

Moreover, as a matter of fact, as Webster went on to show, in a certain very important sense the Federal Constitution relies, for the maintenance of the Government which it establishes, upon the plighted faith not of the States, as States, but upon the several oaths of its individual citizens, in that all members of a State legislature are obliged, as a condition precedent to their taking their seats, to swear to support the Federal Constitution, and from the obligation of this oath no State power can discharge them. Thus, says Webster—

No member of a State legislature can refuse to proceed at the proper time to elect Senators to Congress, or to provide for the choice of electors of President and Vice President, any more than the Members of this body [Senate] can refuse, when the appointed day arrives, to meet the Members of the other House, to count the votes for those officers, and



to ascertain who are chosen. In both cases, the duty binds, and with equal strength, the conscience of the individual Member, and it is imposed on all by an oath in the very same words.

Mr. Willoughby, from whom I am reading, professor of political science at Johns Hopkins University, the author of a great many books full of interest, answers him by saying:

The correctness of the reasoning of Webster may be granted, and yet the fact remains that however great a moral obligation there may be upon the individual members of the several State governments to take such action as is necessary to equip the Federal Government with the officials necessary for its operation, there exists no legal means, by an issue of mandamus or otherwise, to compel such action when refused.

The Senator from Montana will recollect that right after the Constitutional Convention met a Senator elected from North Carolina—I forget his name; perhaps the North Carolina Senators, if present, would remember it—declined to come to Washington. He started out, and he said it was too cold. He proceeded about 25 miles from home and resigned his commission as Senator. Suppose the State should not elect any Senator; under the Sutherland amendment, can the State be compelled to elect Senators? I say not by any means.

Mr. CARTER. I am very much delighted with the interruption of the Senator, and the contribution he makes from Prof. Willoughby's excellent work, recently issued, meets with my hearty approval. Mr. Webster assumed that no human foresight could contemplate or deal with prospective chaos; that every presumption was that men oath bound would perform their duty; that if Commonwealths of this Nation refuse to perform their functions, we then have a condition beyond existing law or reasonable assumption to be dealt with.

But, Mr. President, the Senator reiterates—this is the part that delights me, because I want to make that part plain—that the Sutherland amendment is intended to put something in the Constitution when, in truth and fact, it is intended to strike something out of the joint resolution. Let us have no mistake about that. I conceive there can be none. The amendment proposed by the joint resolution provides for the election of Senators by the people, first. Second, it proposes as a separate and independent proposition, but so correlated and interwoven with the first as to be inseparable from it—

Mr. RAYNER. Mr. President—

Mr. CARTER. A proposal to change section 4 of Article I by transferring the power to control Senatorial elections from the Federal Government to the States. The Sutherland amendment proposes to leave the Constitution as it is in that particular.

Mr. RAYNER. I should like to have the Senator's opinion on that. Of course I do not agree with that. But does the Senator think that under the present law we could go behind the action of the legislature that elects a Senator? Does the Senator think we can do that?

Mr. CARTER. I think not.

Mr. RAYNER. Then, under the law, with the popular election of Senators, can not we go into a question of fraud or intimidation or violence at the polls when the election is by the people?

Mr. CARTER. I think we can under the Constitution as it is, for section 4 of Article I confers the power.

Mr. RAYNER. Very well. Is not that a change? What I want to ask the Senator is this: We can not get to the people now. If there were fraud, violence, intimidation, and corruption at the polls that elected the legislature, nevertheless if the legislature properly elected the Senator the Senator comes here, and you can not inquire into any fraud, crime, or corruption at the polls. I say without the Sutherland amendment, if there is an election by the people, you can inquire into fraud. Is not that a difference? Is not that a very broad difference, in the Senator's mind?

Mr. CARTER. The Senator presents the matter as he understands it. The Senator does not want to have any power in Congress to inquire into the election of a Senator at the polls. He wants the right to rest in the State, without any authority in Congress to challenge the right of the States to conduct the elections just as they please.

Mr. RAYNER. I believe firmly—the Senator will pardon me for interrupting him—as a legal proposition that if there is fraud or violence or intimidation or corruption at the polls, without any Sutherland amendment at all the Federal Congress is vested with full power to punish the crimes that have been committed at the ballot box. I have not the slightest doubt about that.

Mr. CARTER. Then the Sutherland amendment can do no harm, because it only proposes to leave the Constitution as it is in this respect.

Mr. RAYNER. The only harm it can do—and I do not agree with the proposition that it can do this—is that under this provision you might, perhaps, pass another force bill and man and

equip the polls. That is another thing entirely. I want the Senator to understand my position. I say you can appoint supervisors and deputy marshals now, without the Sutherland amendment, to see that the State authorities faithfully carry out the law. That is my interpretation of the Siebold decision. That is, in the election for Members of the House held under the State authority you may appoint deputy marshals at the polls to see that order is kept and supervisors to see that the returns are properly made under the laws of the State.

That is an entirely different thing from appointing registration boards—I want to be understood on that—who are to register voters contrary to the law of the State and then certify the result to Congress. I just ask the Senator now to bring his mind down to that proposition, that those things are entirely separate.

If you analyze this case, if you put men at the polls to see that the State authorities do their duty under the decision in the Siebold case, that is one thing; and if you appoint registers who are to register voters in defiance of the laws of the State and to certify the result, it is an entirely different proposition.

Let me ask this question in this connection. Let us take the State of Georgia. Suppose you were to appoint registers to-day to register outside of her own laws all the negroes in the State of Georgia and to certify the result and bring that result to the Senate. Does the Senator from Montana think that we would have any right to do that where it practically destroys the suffrage of the State? If the Senator will enlighten us on that proposition, I will be obliged.

Mr. CARTER. There is no contention here that the Federal Government has the right to fix the conditions for the exercise of the suffrage in any State except in this, to wit, that no State shall deny a man the right to vote because of race, color, or previous condition of servitude. Subject to that limitation it rests with every State to prescribe the conditions under which men or women may vote.

The Federal election officers, if commissioned to register voters under Federal law, would be bound to confine the registration to the legal voters of the State. They would have no right to extend the franchise in violation of the laws of the State. But they would have the right to register every legal voter in the State, and the election officers appointed would have the right to see to it that every legal voter was permitted to have his vote cast and fairly counted, and also to see that no voter was deprived of his right on account of race, color, or previous condition of servitude.

Mr. RAYNER. Then, what does the Senator want the Sutherland amendment for? Is not that done now? What is the object of the Sutherland amendment? Every legal voter in the State that you speak of as having disfranchised the colored man has a right to register and to vote. Why do you want a Federal law to do what the States are doing? That is what I want to understand.

Mr. CARTER. There the Senator goes again. He says the Sutherland amendment is injecting something into the Constitution, when the purpose, and the sole purpose, of the Sutherland amendment is to strike out that portion of the joint resolution which seeks to change the Constitution in that particular. What we want is to submit an amendment to the people providing for the election of the Senators by direct vote. That is supplemented in the joint resolution before us by another proposition—let me repeat again—to deprive Congress of the power to have anything to say about the election of a Senator.

We do not desire to submit this last question at all. There is no call for it. It is the duty of this Senate, it is duty of the Congress, to preserve the power to protect and continue the life of the Congress.

Mr. RAYNER. Let us take my own State, for instance. Suppose we had a law, as I said this morning, that every citizen who owns \$500 worth of property can vote; that every citizen who owns \$500 worth of property can register and vote under State laws. What is your board of registration, under the Sutherland amendment, under a law of that sort? Is it to see whether they are properly registered under the laws of our State? If so, there is no necessity for it, because the State laws give them full opportunity to do that and give the citizen all the redress that is necessary. If the registration board, under the Sutherland amendment, is to do anything else, then it is in conflict with the authorities which have held that my State has the right to determine upon the suffrage of the citizens of my State. That is the point to which I want to call the Senator's attention.

Mr. CARTER. We are not providing for any register; we are not providing any election officers; we are not interfering with any election or registration in the State of Maryland. What we are contending for is that this Government shall not surrender to the States the right, in the last analysis, to pro-

fect the election of Members of Congress—of the Senate and House—from fraud, intimidation, and violence at the polls.

Mr. RAYNER. Let us get down practically to this: What does the Senator from Montana propose to do under the Sutherland amendment with the election systems in the South? Suppose the Sutherland amendment was in, what is the operation of it; what does the Senator propose to do now? If the voters are properly registered under the laws of the State, what do you propose to do under the Sutherland amendment?

Mr. CARTER. The Congress will, as time goes on, determine the appropriate action, if any, to be taken.

Mr. RAYNER. Oh, Mr. President, that is not an answer. That is a general answer which relates to the future. If we put the Sutherland amendment in now, what law does the Senator propose to pass to effectuate the intention of the Sutherland amendment? That is what I am after.

Mr. CARTER. The Sutherland amendment adds nothing to the Constitution. It leaves it as it is and has been from the foundation of the Government.

Mr. RAYNER. Oh, Mr. President, we understand all that. That is a controversy about words. I will change the question. We have talked about that so often I did not see any necessity for repeating it. If the Sutherland amendment—call it what you will—if the Sutherland proposition is left where it is, what law do you propose to pass in the Congress of the United States to carry it out? That is the practical question. You can not pass any law that takes away the suffrage of the citizens of the State. You can not pass any law that is in conflict with the registration law of the State. You can not appoint a registration board that will register a different class of citizens than those who are entitled to registration.

What is there you propose to do? What step do you propose to take? Suppose the people determine upon the popular election of Senators and the Sutherland amendment is left in and is ratified by the people, what law do you propose to pass? Give us the law, and then we will see whether you have a constitutional right to pass it.

Mr. CARTER. The proposal to amend the Constitution has led to so much debate that I believe Congress would expire before we could agree upon the terms of the law suggested, and while the sturdy representative from the State of Maryland remains in my presence I am sure I will not undertake the difficult task of passing any law on the subject before March 4.

Mr. RAYNER. Because you can not do it; because the Senator dare not do it. The Senator would not dare to do it, because whenever he wrote a law that law would be in conflict with the law of the State in which the law was intended to operate. The Senator can not answer the question.

I am speaking now to Republican Senators. I do not want this joint resolution saddled and burdened with this amendment if we can help it, because I am in favor of the election of Senators by the people, and the Senator from Montana is opposed, bitterly opposed, to the election of Senators by the people. Now, tell the Senate—that is a fair question—what good the Sutherland amendment would do. What law could you pass under the Sutherland amendment? Why put the Sutherland amendment into our proposition?

Mr. CARTER. I desire the Senator from Maryland to make a correction before he departs from this side of the Chamber.

Mr. RAYNER. All right; I will make any correction you want, in your speech or mine.

Mr. CARTER. The Senator made the statement that the Senator from Montana is bitterly opposed to the election of Senators by the people.

Mr. RAYNER. I will take back the word "bitterly" and say "cheerfully."

Mr. CARTER. The Senator from Maryland is not warranted in making any such statement, and in making it he is descending to a grade of politics in the Chamber that I regret to see employed here.

Mr. RAYNER. If I have made a mistake, there is no one on this floor who would sooner retract it. If the Senator is in favor of the election of Senators by the people, I have made a most terrible blunder, because we have all thought he was against it. I retract it, and will be glad to have his vote in favor of the popular election of Senators.

Mr. CARTER. The Senator from Maryland is not, I believe, very much mistaken about this matter. I stated very clearly on the day this debate was opened—

Mr. RAYNER. I did not hear that.

Mr. CARTER. That, under instructions from the Legislature of the State of Montana, the State that I have the honor in part to represent, I would vote for the submission to the people of the proposed amendment to the Constitution providing for the election of Senators by the people. I would

do that out of respect for the Legislature of the State, reserving unto myself the right, if I so elect, to oppose that amendment before the people. That right I do reserve.

Mr. RAYNER. I did not hear the Senator's statement.

Mr. CARTER. There is no equivocation about that.

Mr. RAYNER. I did not hear that statement. Let me ask the Senator, Suppose the Legislature of Montana had not given the Senator any instructions; how would he vote then?

Mr. CARTER. My present view is that, in the absence of any expression by the Legislature of Montana on the subject, I would oppose the joint resolution.

Mr. RAYNER. That is what I thought.

Mr. CARTER. Yes, sir; there is no question or quibble about it.

Mr. RAYNER. Then I am right in my proposition, because the Senator from Maryland did not know that the Senator from Montana had been instructed, and if there had been no instruction, then the Senator at heart is against the election of Senators by the people.

Mr. CARTER. I want to make another statement to the Senate, that I regard the manner of electing Senators as in no wise or to no considerable degree involving any vital principle of our Government. I would not, however, under the instruction of 40 legislatures, vote to submit an amendment to deprive the Congress of the United States of the right to protect its own life.

Now, Mr. President, I think I have made myself clear to the Senator from Maryland. While I intended to speak only 10 minutes on this subject, I have consumed more time than I expected to occupy, and I will surrender the floor.

Mr. HEYBURN. Mr. President, the discussion of this question has proceeded largely along the lines that the presumption is in favor of changing the Constitution, and that anyone opposing a proposition of that kind must make good. I shall consider the joint resolution from the opposite standpoint. When anyone proposes to change the Constitution of the United States the burden is upon him to give not only a presumptive reason but an absolutely convincing reason, in the absence of which there will be nothing left to consider. That is the position, for the presentation of which I shall ask the indulgence of the Senate for awhile this afternoon. I would not feel called upon, were this a proposition to legislate relative to any question, regardless of its importance, to delay a final determination of it; I would not feel justified, were it a proposition to amend or repeal an existing law that did not affect the vitality of the Nation, to prolong the discussion; but I realize that Congress to-day, and perhaps the whole people to-morrow, are engaged in a struggle for the preservation of the life of this Nation. A little disease, a little wound, in a part of the Constitution may be only the harbinger of its destruction, as in everything else human.

Mr. President, no one has discussed the question as to why the Constitution should be amended. Senators have not dwelt upon it. I propound the question, What evil has come upon the country that will be cured by this amendment? What danger threatens the people, individually, or in their organized Government, that demands a change in the Constitution? I have not heard any Senator dwell upon that phase of the question. Have not the Senates of the past been up to the standard that these reformers dream of for the future? Have not the individual Senators in the past been of equal ability or of as high a standard as you dream of getting in the future? A vote in support of this resolution is a vote in condemnation of the character and the efficiency of the Senates and the Senators of the past and the present.

What do you hope to gain, then, by adopting a different method? Do you expect to raise the standard of the individual Senator? Do you expect to raise the average standard of the body as a whole by changing the manner of its selection? That might be a very good reason if that is your reason. Would the Senator from Indiana [Mr. BEVERIDGE] condemn the wisdom or the integrity of the legislature that sent him to this body 12 years ago, or the legislature that reelected him six years ago? Does he think that by changing the policy of the Government in this regard he would get a higher grade of men in the legislature, men of more intelligence and more integrity?

Does not that appeal to the patriotism and the pride of a Senator? Is there any Senator in this body who is willing to stand up and admit that his legislature was inefficient and lacking in patriotism or ability that sent him to this body? I would not suggest that there is a Member of this body who would even suggest that the legislature that sent another Senator here was lacking in intelligence and integrity, and then claim that the people of the legislature who sent him here was par excellence in these respects.



I have been much entertained by the proceedings that have taken place in some of the legislatures of the States, where they have followed in the footsteps of Uriah Heep in their humility, and said: "Oh, we are not at all fit to perform this duty; you must elevate the standard of the legislature which will, of course, leave us at home and allow them to select Senators."

Mr. President, I am loath to bring into the consideration of this case a matter which is partially personal, but inasmuch as there has been introduced into this debate a resolution of the legislature of the State of Idaho demanding that its Senators shall vote for this constitutional amendment, I propose to put myself before this body in the same relation that I placed myself before that body. A man who is afraid of his legislature, whose vote is affected at all by what his legislature may do, is not fit to be here. He is not here as a Senator for the State where he happens to live; he is here as a Senator of the United States, and every other State is interested in his character and his ability to perform his duties as a Senator. I replied to the resolution that is on the desk. I replied to the legislature, through the secretary of state, and inasmuch as it expresses my views in the particular, I will treat it as though I had prepared this much of a speech to deliver on this occasion.

I said to the Hon. W. L. Gifford, secretary of state, Boise, Idaho, under date of January 26, 1911:

MY DEAR MR. SECRETARY: I am in receipt of a copy, certified under the seal of the State, of senate joint memorial No. 1, introduced by Mr. Freehafer, addressed to the Senators and Representatives of the United States in Congress assembled, relative to a resolution now pending in the Senate of the United States proposing to submit to the several States of the Union an amendment to the Constitution of the United States providing that Members of the United States Senate shall be elected by the direct vote of the people of their respective States instead of by the legislature, as now provided, and resolving that the memorialist earnestly recommends the passage of said resolution, and represents that the State of Idaho desires the submission of such an amendment to the various States for ratification at an early date, and that the secretary of the State of Idaho is instructed to forward the memorial to the Senate and House of Representatives of the United States, and copies of the same to the Senators and Representative in Congress from Idaho.

The petition of the Legislature of the State of Idaho will receive my due consideration, but not my support. In my capacity as a Senator of the United States I speak for all of the States in the Union collectively. The manner of the election of Senators is not the only consideration. In speaking to the Republican convention, prior to their indorsement of my election to the United States Senate and on every other appropriate occasion, I have stated that I was not in favor of a change in the manner of electing Senators of the United States. I have not seen one reason to change my views in regard to that question. I have not lost confidence in the integrity or ability of the citizens of the State or of the Nation, nor have I lost confidence in the wisdom of their selection of members of the legislature. The Legislature of Idaho has given no cause in the past to suspect their integrity or ability to perform their duties. I am not willing to indorse any action that would directly or indirectly indicate that they were not entitled to the confidence of the people. I can not conceive that the legislature intended, in adopting this resolution, to confess their inability to honestly perform a constitutional duty in electing United States Senators, or that they intended to suggest that future legislatures would not be as honest or as competent.

In my judgment it is not true that the people of Idaho desire any change in the Constitution of the United States upon a fair and intelligent consideration of the question. It is so easy for some men, when they think they want a thing, to support their effort to obtain it by asserting that everybody else wants it.

The present resolution pending before the United States Senate in this regard provides for the repeal of that portion of section 4 of Article I of the Constitution which gives Congress the power to make necessary laws and regulations concerning the manner and time of electing Senators. This was inserted in the resolution providing for the election of Senators by direct vote in order to get the votes of those States where they desired and have been attempting to disfranchise a part of the people in violation of the Constitution. They chafe under the restraint of the Constitution, which prevents them from violating the law of the land, the law of justice, and the law of right. They are willing to support the proposition to amend section 3, so as to elect Senators by direct vote of the people in consideration of the repeal of one of the most important provisions in the Constitution, to wit, section 4 of Article I. It is an unholy combine, having in view the disfranchisement of the negro, or any other portion of the people, against whom certain States have been for 50 years waging franchise warfare.

When these questions are discussed with and among the people, they will very soon show by their votes that they are not in favor of the resolution to which the memorial of the Legislature of Idaho is directed.

Mr. President, I intended to sum up in that letter my objections to this proposed amendment to the Constitution. That was my intention. I intended to be as candid, as fair, and to express myself as fully to the Legislature of Idaho as I would find it necessary to express myself in this body. But while I believe that the whole argument is stated in that letter to the Legislature of Idaho, some things have been said and proposed here that I feel justified, if not called upon, to discuss.

In the first place, the States and this Congress have lost sight of section 5, which provides the manner of amending the Constitution of the United States. The resolution is not in conformity with it. The speeches that have been made do not recognize it, nor have they taken it into consideration for a single minute.

Sight is lost of the fact that two methods, and two only, are prescribed by the Constitution in section 5 by which the Constitution may be amended. Congress may submit to the legislatures of the States proposed amendments, which if ratified by three-fourths of the States become a part of the Constitution.

Now, we are not proceeding under that. We are not proceeding under that provision of the Constitution because the States have not asked us to submit the question, nor does the Constitution authorize them to request Congress to submit it. There is no mention in the Constitution with reference to the States requesting Congress to submit amendments to the Constitution. There is no reference to it.

The second method provided by the Constitution in the same section 5 is one that comes to us rather than flows from us. When the States act they do not act on an amendment. They do not propose an amendment to the Constitution. They ask, and their only power is to ask, that a constitutional convention shall be called. The States are not authorized by the Constitution to ask Congress or to petition Congress to submit amendments to the Constitution.

So these resolutions and memorials have come up here without authority and without recognition in the Constitution. There is no law, there is no precedent under which the States may ask Congress to submit the question to the people or to the legislature. I desire to impress this upon the minds of Senators. The only provision that provides for the action by the States is that which authorizes them, when a certain number of them agree, to call a constitutional convention, not a constitutional convention with limited powers. Section 5 does not contemplate that any constitutional convention shall assemble with a limitation on it to deal with a particular question. When the constitutional convention meets it is the people, and it is the same people who made the original Constitution, and no limitation in the original Constitution controls the people when they meet again to consider the Constitution.

I have heard Senators say here, in discussing this matter, that the small States were safe against any change in the basis of representation. When the people of the United States meet in a constitutional convention there is no power to limit their action. They are greater than the Constitution, and they can repeal the provision that limits the right of amendment. They can repeal every section of it, because they are the peers of the people who made it.

That is the thing that the States have been clamoring for—a convention. I have every resolution here in my desk, and so have other Senators. With the exception of less than seven, every one calls for what? That the Senate shall submit amendments? No; but that the Congress shall provide for the calling of a constitutional convention.

Now, you ought to bear that in mind. Do we want in this age that 90,000,000 people should undertake in a constitutional convention to make a new organic law? I do not believe that any nation on the earth exceeding, say, 5,000,000 people could make a constitution to-day, with all of the sectional interests, with all of the individual and class interests. In this country, just as soon as a constitutional convention was assembled they would be seeking to open every door to access and to carry out or make possible the carrying out of the fallacies, the fads, and the fancies of the imagination of the people who talk about the Government and the Constitution of the United States as glibly as though they knew something about it.

Mr. President, I think it is time that we had commenced at the beginning of the consideration of this question and know what we are called to pass upon. I have heard Senator after Senator state on this floor that the legislatures had demanded that Congress should submit these amendments. I defy any Senator to name seven States whose legislatures have asked that Congress do anything of the kind. I find only four among those I have in my desk. I find that some of them have asked that a constitutional convention be called to consider this question. They have no power to limit the request. The only power that they are given is by section 5, and it does not authorize them to call for a constitutional convention of limited powers, but to call for a constitutional convention of the people of the country.

Mr. President, we are not acting in pursuance of that part of the Constitution authorizing or prescribing the manner of amending the Constitution.

Mr. BORAH. Mr. President—

The VICE PRESIDENT. Does the Senator from Idaho yield to his colleague?

Mr. HEYBURN. Yes.

Mr. BORAH. As I understood the Senator, he said that only seven States had passed resolutions.

Mr. HEYBURN. For what? It depends on what the resolution is.

Mr. BORAH. I have not concluded my remark. Did he state that only seven States have passed a resolution outside of those which have called for a national convention?

Mr. HEYBURN. That is all that is on record.

Mr. BORAH. Will the Senator permit me to read some of them?

Mr. HEYBURN. Yes; if the resolutions are made available. I have copies of the resolutions here. I have gone over them carefully and I have had the officers of the Senate to check up to know whether I had them all.

Mr. BORAH. I do not know anything about what resolutions the Senator has. I apprehend that he has them all; but I do know, as a historical fact, that the resolutions which have been passed by the States are far in excess of seven.

Mr. HEYBURN. What resolutions?

Mr. BORAH. The resolutions asking the Senate to support an amendment to the Constitution.

Mr. HEYBURN. I suppose they are sitting up at nights doing it now. I notice that the Idaho Legislature seemed to linger one day for the purpose of doing it. How long since have they been adopted? Not long enough to reach the files of the Senate.

Mr. BORAH. That might be true, but they have been adopted by the legislatures. The reason why I rose was because my colleague said he thought no such resolutions had been passed. There have been resolutions passed by States far in excess of seven asking this body to submit this amendment. The number of States that have asked for it is somewhere in the twenties.

Mr. HEYBURN. Well, I have them here.

Mr. BORAH. I have a record of them here.

Mr. HEYBURN. Alabama asked Congress to submit an amendment; that is, August 10, 1909. Arkansas and California are not of record in the files of this body.

Mr. BORAH. Although both of them have passed resolutions.

Mr. HEYBURN. Within a few days?

Mr. BORAH. No; not within a few days.

Mr. HEYBURN. How recently?

Mr. BORAH. California first in 1893.

Mr. HEYBURN. That was for a constitutional convention.

Mr. BORAH. Oh, no; and California again in 1900 and in 1901, and then in 1903 California passed the resolution which the Senator refers to. In addition to that California had also passed the other resolution of 1873.

Mr. HEYBURN. But she repealed them when she passed her last one, which is what I have already stated in effect, that what she wanted was a constitutional convention.

Mr. BORAH. That was the sober second thought?

Mr. HEYBURN. Colorado, April 1, 1901, asked for a constitutional convention. Connecticut, Delaware, Florida, and Georgia, according to the files of this body, have not expressed themselves. Idaho, on February 14, 1901, asked for a constitutional convention. That is not this resolution. I know that within a few days, as I said, they sat up at night to pass one—after they had my letter, I think.

Mr. BORAH. But Idaho had passed the other resolution three separate times prior to that.

Mr. HEYBURN. But she repealed them by her last expression. I have it here. Illinois, May 10, 1907, asked for a constitutional convention. Indiana is not on record.

Mr. JONES. Mr. President—

The VICE PRESIDENT. Does the Senator from Idaho yield to the Senator from Washington?

Mr. HEYBURN. Certainly.

Mr. JONES. I wish to suggest that possibly Idaho and California got tired knocking at the door of the Senate and concluded that they would take their own method.

Mr. HEYBURN. They will become more weary, so far as I am concerned. Iowa asked for a constitutional convention March 24, 1904. I am speaking now from the official files of the United States Senate. Kansas asked for a constitutional convention. Kentucky is not on record. Louisiana asked for a constitutional convention with general powers, without any limitation, to pass upon this and other questions.

Mr. BORAH. Kentucky passed her resolution in 1892 and asked for the submission of the amendment, and again passed a resolution asking for a constitutional convention in 1902.

Mr. BEVERIDGE. They want it either way.

Mr. HEYBURN. No; there is something definite about law-making. Governmental functions that are not definite are not to be counted upon. Maine and Maryland are not on record. I shall not spend much time on this. I did not intend to do more than make the general statement, having the data

right before me. Michigan asked for a constitutional convention. Minnesota asked for one. Mississippi is not on record. Missouri asked for a constitutional convention. Montana asked for a constitutional convention. I think the Senator from Montana may consider himself released because they did not ask for that which this resolution proposes; they asked for a constitutional convention.

Mr. BORAH. Mr. President—

The VICE PRESIDENT. Does the Senator from Idaho yield to his colleague?

Mr. HEYBURN. Yes.

Mr. BORAH. Montana asked for a submission of the amendment in 1893 and again in 1897 and again in 1899.

Mr. HEYBURN. Well, the last expression is February 21, 1907, when they asked for a constitutional convention. That is the last from Montana. Nebraska does not ask that Congress submit this amendment, but asks for a constitutional convention. New Hampshire is not on record. New Jersey, May 28, 1907, asked that a constitutional convention should be called. New York, North Carolina, North Dakota, and Ohio are not on record in the files of the United States Senate.

Mr. OVERMAN. I will state that I think the Legislature of North Carolina has twice passed a resolution asking that the question be submitted to the people for a constitutional amendment.

Mr. HEYBURN. They unfortunately seem not to have reached the Senate.

Mr. CLARK of Wyoming. Will the Senator from Idaho allow me to ask a question of the Senator from North Carolina?

Mr. HEYBURN. Certainly.

Mr. CLARK of Wyoming. Has the Legislature of North Carolina at any time asked Congress to submit for consideration an amendment to the Constitution proposing to amend section 4 of Article I?

Mr. OVERMAN. Oh, no; I do not mean to say that. She asked for a submission of the amendment.

Mr. CLARK of Wyoming. Pertaining to section 4 of Article I?

Mr. OVERMAN. I mean that the Legislature of North Carolina instructed the Senators and requested the Members of Congress from that State to vote for a resolution submitting a constitutional amendment.

Mr. CLARK of Wyoming. But the constitutional amendment I am speaking of, the constitutional amendment sought to be submitted here, to wit, the amendment of section 4 of Article I?

Mr. OVERMAN. There is nothing said in it about section 4 of Article I.

Mr. HEYBURN. Mr. President, I come now to Oklahoma. They have not asked that Congress shall submit any question to the legislatures of the States. They have asked that a constitutional convention be called. They did that on January 29, 1908. The same is true of Oregon. Oregon has made no demand that we submit this question at all. She has asked that a constitutional convention be called. That was done on January 29, 1909. Pennsylvania and Rhode Island—

Mr. BORAH. Mr. President—

The VICE PRESIDENT. Does the Senator from Idaho yield to his colleague?

Mr. HEYBURN. Yes.

Mr. BORAH. When my colleague says that Oregon has made no such demand, I presume he means that her latest demand is for a constitutional convention, because Oregon had passed the other resolution twice previous to the last resolution.

Mr. HEYBURN. They were probably becoming gradually civilized. [Laughter.] This list is quite recent. Pennsylvania and Rhode Island still seem to be "standpatters." They have made no record. South Carolina seems to have made no record. South Dakota, on February 8, 1909, asked for a constitutional convention, but has never asked for a submission, so far as the records of the Senate show. My colleague seems to have a little book that looks like Goodrich's Geography there before him [laughter], and he may have some ancient history in it. That was old Peter Parley, that I was familiar with a long time ago.

Tennessee only requests that the constitutional convention be called. Texas, Utah, Vermont, Virginia, the State of Washington, West Virginia, Wisconsin, and Wyoming have no record, so far as the files of the Senate show their desire in this matter.

Mr. BORAH. Mr. President—

The VICE PRESIDENT. Does the Senator from Idaho yield to his colleague?

Mr. HEYBURN. Yes; I yield.

Mr. BORAH. According to Goodrich's Geography, Wyoming has twice passed this resolution.

Mr. HEYBURN. How lately?



Mr. BORAH. And South Dakota four times.

Mr. CLARK of Wyoming. Mr. President—

The VICE PRESIDENT. Does the Senator from Idaho yield to the Senator from Wyoming?

Mr. HEYBURN. I do.

Mr. CLARK of Wyoming. I doubt exceedingly the accuracy of the geography from which the Senator from Idaho reads.

Mr. HEYBURN. We used to doubt it when I studied it. [Laughter.]

Mr. CLARK of Wyoming. Wyoming has passed a resolution, twice, I think, asking Congress to submit an amendment to the Constitution providing for the election of Senators by direct vote; but it never has asked the Congress of the United States, within my knowledge, to submit to the legislatures the proposition that the Congress of the United States should pass an amendment to the Constitution whereby it should divorce the General Government from the right to have something to say in regard to these elections. I make that statement so that there may be no mistake on this question.

Mr. BORAH. Mr. President, I was discussing the matter as to the difference between a resolution providing for a constitutional convention and asking Congress to submit the question.

Mr. CLARK of Wyoming. In that attitude the Senator is entirely right, only I do not want his absolute statement to go unchallenged that this resolution had been asked for by the legislature of Wyoming.

Mr. BORAH. I am very glad to be corrected in that respect, but I did not intend it in that way, and I did not think the Senate would so interpret it in view of the discussion which was proceeding.

Mr. HEYBURN. Mr. President, I will pass from that presentation to another one that has struck me as being unusual. The whole gist of this proposition is to discredit the legislature as being an unfit body to select United States Senators. I will waive for the moment the question of the quality of the Senators that they are likely to elect or not to elect. But, singular to say, this resolution is to be submitted to this very discredited body, the legislature of the State. It is not to be submitted to the people. According to the procedure under consideration this amendment would be submitted to the legislatures, and the people—the dear people—would abide the will and action of the legislatures.

Mr. President, I have been busily engaged here for some months, and I perhaps have not had an opportunity to be advised as to the deterioration of the legislatures, but the Constitution of the United States was submitted to the States as a unit and not to popular vote. We were able to get pretty good results back in those days by recognizing the States and submitting the great charter to their legislatures, but now it seems that the conditions have changed in the imagination of some. The selected and picked men from the State who comprise the legislature are no longer to be trusted. It is proposed to substitute for them the ward heeler, precinct politics, and all that goes with them as a more reliable and trustworthy medium between the people and their Government. That does not appeal to me.

It is said that the legislatures are long in electing, in performing their duties. The legislatures that are now in a tie-up are going along with general legislation. They meet once a day at 12 o'clock in joint session, cast a ballot, and return to their respective duties. When the volume of laws enacted at this session of such legislatures shall have been published it will be found to be as comprehensive and it will be found to display as much evidence of good judgment as the work of other legislatures. I am quite confident that the general public is of the opinion that when they hear of a legislative tie-up on the United States senatorship the legislature is doing nothing except trying to elect a United States Senator, and they think if they could transfer that high function in government to the ward politics down along the river they would get a better result, or, at least, a quicker one.

Mr. President, the question that we must all settle is, Shall we have better results under the proposed change? For the moment I will leave out the proposition of the amendment offered by the Senator from Utah [Mr. SUTHERLAND], because the same spirit is moving the entire proposition. It is a spirit of change; it is a spirit that is most often evinced by those who have recently entered a new country. They have brought old traditions and different conditions with them, and they are uncomfortable; they are not accustomed to the style of house or furniture or living or food or scenery, and the first impulse is to try to gather around them the conditions from which they have fled. They are generally ready to propose an amendment to the Constitution of the United States about the time they declare their intention to become citizens of the United States. [Laughter.]

I have no doubt at all—and I speak in no spirit of disrespect to any State—that if you should go over into that Italian colony in a certain part of New Jersey where those people are largely in control, you can get a strong support and a majority for any amendment to the Constitution that will weaken the hands of the Government. A government that rests as lightly as a feather upon the well-trained American citizen is as lead upon those people. They are actuated by sentiments we do not recognize to demand a change in the law.

I can not conceive of a man proposing to change the Constitution of the United States except under the stress of war or its results or great combinations that could not have been foreseen by the framers of the Constitution. There never has been an hour or a moment in my life when I wanted to change the Constitution of the United States as it affects the balance of the three coordinate branches of the Government, and yet, Mr. President, we find resolutions thrown in here as glibly as if it were something unimportant and which could be corrected tomorrow if we found we were mistaken.

Mr. President, just contemplate for a moment a contest over the election of a Senator of the United States which was dependent upon investigation of charges of bribery and corruption in the precincts and wards and townships all over the United States or all over a State, as it might be. Suppose, for instance, a great city that cast half the votes of a State in some instances should nominate one of its citizens for Senator and agree that they wanted the Senator from that city, what share or participation would the country, that constituted the great volume of the State, have in that act?

As it is now, the legislature is made up of citizens from all over the State apportioned. They come together once in two or four years, as it may happen, with the knowledge that they are going to be required to elect a Senator. Nine times out of 10—I will put it nearly 99 times out of 100—they perform that duty within the first two or three days of the session.

Mr. GALLINGER. After they commence to vote.

Mr. HEYBURN. Yes; after they commence to vote. I have the official figures as to that. There have been during the lifetime of this Government 1,180 men elected to the United States Senate; and that does not include, in many instances, the reelection of some of the Senators. That you can find in the Senate Manual. The number of contested-election cases in the Senate during all these years is 161. You will find that in the official files of this body. The number of Senators denied a seat in the Senate is seven; seven out of 1,180. Where in the world, or in the history of the world, have the people shown such accuracy and judgment in the estimation of men and of their qualifications as is shown by that record?

Now, I will give you a little more detail in regard to those Senators. There were 161 contestants. Deduct from those the number of persons—38—whose cases were considered by reason of alleged acts not affecting the legality of their election, such as alleged acts and disabilities incident to the Civil War; deduct also the number of persons exceeding one in cases where the claims of two or more contestants related to the same seat and election, of whom there were 22, that makes 60 to deduct from 161. The result is that the number of elections, the legality of which was considered by the Committee on Privileges and Elections, from 1789 to 1903, was 101 cases.

Of these 101 cases, 15 contestants were denied seats on technical grounds—that is, on grounds other than alleged corruption, bribery, and so forth. Of these 101 cases, 15 were upon the ground of alleged bribery or corruption in connection with their elections. Fifteen men in all these years have stood at the bar of this great tribunal charged with corruption and bribery, not always on the part of the contestants, but on the part of others. What a record! Does it not stand as a bright light in the history of this country that in all those years only that small number of men should have sought to enter this body without legal right? Does that present a case demanding a change in the Constitution of the United States and the uprooting of a system that was the result of the wisdom of our ancestors in those days when they were free from the passion of conflict, when they stood at the threshold with the desire and the hope only of framing a Government that should bring together as the representatives of the people the best men from out the body of the people? There was no political juggling in that action.

We have heard much in regard to what took place in the way of conversations in the great Constitutional Convention relative to these matters. The thing that counts is what they did. It reminds me of a certain class of attorneys, who spend their time reading dissenting opinions of the courts and contending that they should have been the rule of law. Here we have the ultimate wisdom of the makers of our Constitution, and we have, in addition to that, the hundreds and hundreds of millions

of American citizens who have lived under that Constitution and given it their support and recognized it as being sufficient for all the wants of the people.

It is said the people demand this constitutional amendment. As I stated in my letter to the legislature, some men are prone to get their heads together with themselves and declare that "we, the people, want this or that." I am not a poll taker; but they tell me that the people are clamoring for it. I have been receiving in every mail letters from the State that sent me here bidding me godspeed and urging me to stand just where I stand in regard to this matter, and those letters are from men who count; they are from men who count for their citizenship, for their loyalty, and for their intelligence.

I do not intend to volunteer advice to Senators, but I would suggest that perhaps it would be well not to attach too much importance to the action of a legislative body upon this question, that, like a round robin, is going all over the country to-day. I have some of them here on printed forms on this question. Somebody is sending them out and demanding that I vote in a certain way; that I vote for this resolution, and a number of them do not know how to spell my name, and some of them do not even know how to spell their own names. [Laughter.] Yet they are demanding that I shall support this resolution. I adopted the policy of a carefully arranged letter as an answer that I have sent to most of them, in which I have acknowledged the receipt of their communications, which are nearly all printed except the signature and the date, and stated that I recognize the fact that they are among those capable of forming a judgment and whose judgment I should have the benefit of, and I have asked them to submit to me at length their ideas and the reasons for their conclusions.

I have not yet had any answers to those letters. [Laughter.] I did it in a just spirit of resentment against an unholy attempt to influence a man by fright in the performance of his duty. That is all there is in it. The effort has behind it the desire to scare one into the belief that, if he does not comply with this ignorant demand, he perhaps will some day lose a vote. Well, I do not want such votes. That kind of men never sent me here.

Mr. President, there is this to be said about these resolutions from the several States calling for a convention or asking that Congress shall call a convention: There is an element in this country that chafes against the laws, against the restraint of the law that prevents them from despoiling their neighbor, against the restraint of the law which makes them respect its mandates and the property and the lives of others. There are such men, and they want a constitutional convention so that they can get into the Constitution the recognition of these radical demands that shall give one man in court one right and deprive another man of that right; that shall authorize the court to afford relief to one man and deny it to another; that shall recognize voluntary organizations that present a fair face and have a black heart. If those men could get a constitutional convention and they should send their delegates to it, as they would, what kind of a result do you suppose would come out of it?

If anything ever came out of it—I doubt if they would ever reach a conclusion, but if they did—you would have crystallized in the organic law of the land every vicious piece of proposed legislation that we have had to fight down all these years to maintain our civilization. That is what you would have. All the old bitterness of the race question would have to be thrashed out in such a convention. I speak with perfect candor to my friends on the other side. I have no spirit of bitterness in my heart against any people nor against any man, though I may have my views in regard to policies proposed and existing; but suppose the constitutional convention of the United States was in session, can you imagine the strife and controversy growing out of sectional differences that would arise and that would have to be settled? It is a serious question.

There never will be a time when it will be a safe thing for the American people to open the doors of a constitutional convention. Ninety millions of people are incapable of making a constitution and agreeing upon it. Mark that. It is easy enough in the formative period of a nation for those who have not to provide themselves with that which they need; but we have a Government now representing a variety of ideas and of people, and all of those questions would have to be settled in a convention. Is there a Senator in this body who would vote for the calling of a constitutional convention? I am in earnest in asking that question. I should like to know what Senator would be willing to open the doors of a convention for the purpose and with the power of making an entirely new Constitution, for you can not limit the action of the American people if they should thus come together for the purpose of

making the charter for their Government. The restriction that insures equal representation in this body would be wiped out, as would every other provision. That restriction only applies to the present power of changing it by Congress. You can not say that the people shall not make any charter upon which they agree.

Mr. RAYNER. Mr. President, I should like to ask the Senator—

The VICE PRESIDENT. Does the Senator from Idaho yield to the Senator from Maryland?

Mr. HEYBURN. Certainly.

Mr. RAYNER. I should like to ask the Senator whether those remarks apply to the constitutional convention of Idaho, of which I understand he was a very prominent member, and, I believe, chairman of the judiciary committee.

Mr. HEYBURN. I fail to catch just the spirit of the Senator's remarks.

Mr. RAYNER. I say, do the remarks of the Senator apply to the constitutional convention that was held in the Senator's State?

Mr. HEYBURN. Which particular remark?

Mr. RAYNER. The Senator's remarks in reference to the constitutional conventions.

Mr. HEYBURN. Well, I would not like to see the State of Idaho undertake to make a new constitution. They are too prone to amend it now. Nearly every man that goes to the legislature has some idea that he would like to change the constitution, and I do not recall whether any session has ever passed by without such an attempt being made. The greatest element in any law is that of stability. It is the stability of law that distinguishes us from the people of tribal relations who are bound together only until they agree to disagree.

Mr. CUMMINS. Mr. President—

The VICE PRESIDENT. Does the Senator from Idaho yield to the Senator from Iowa?

Mr. HEYBURN. Yes.

Mr. CUMMINS. I wish the Senator from Idaho would propound again the question that he put a moment ago about Senators voting for a constitutional convention. I am not sure that I understood it, but, as I gathered it, he asked whether any Senator here would be willing to vote for a constitutional convention.

Mr. HEYBURN. Yes; with unlimited power. Of course it would have unlimited power—that will be admitted. I will ask that question over again. I should like to find that no Senator would favor such a proposition.

Mr. CUMMINS. Does the Senator from Idaho say that he would not under any circumstances vote for a constitutional convention?

Mr. HEYBURN. Under no circumstances, real or imaginary or possible, would I vote for a constitutional convention to be called, in which the people of the United States would start in upon the work of making a constitution.

Mr. CUMMINS. Then, Mr. President, I must observe that there might be circumstances under which the Senator from Idaho in refusing to vote for such a convention would not regard the oath under which he is a Member of this body.

Mr. HEYBURN. I should be glad to be reminded of it.

Mr. CUMMINS. I will remind him of it. Whenever two-thirds of the legislatures of the States ask Congress to call a constitutional convention, it is the positive, mandatory duty of Congress to call such a convention; and the Senator from Idaho, if he were a Member of the Senate at that time and should refuse to do so, would disregard the oath he has taken to sustain the Constitution of the United States.

Mr. HEYBURN. With all due personal regard for the Senator from Iowa, that is rather a far-fetched proposition. It is not to be presumed that every man will be deemed a traitor who does not vote for the calling of the convention. If that were true, then the Constitution would have provided that every Senator should vote for it. It evidently contemplated that all of them would not vote for it, because there is one-fourth of it that is immune under the text; and I belong to that one-fourth. I am excused from voting by the terms of the Constitution.

Mr. CUMMINS. On the contrary, the Senator from Idaho is mistaken in regard to that. There is no part of the Senate immune from that duty, and if the Senator will permit me to read the section, I am sure he will immediately agree with me.

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution.

Mr. HEYBURN. That is no part of it.

Mr. CUMMINS. I agree that the Senator is immune from that part of the Constitution, no matter what the circumstances might be—



Or on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments.

That is all there is in the Constitution in regard to the duty of Congress.

Mr. HEYBURN. How many votes are represented by the word "shall"? Has it to be unanimous?

Mr. CUMMINS. Every vote in Congress, in both the House of Representatives and the Senate, if the Members of both bodies do their duty under the Constitution.

Mr. HEYBURN. I have often heard that statement, that a man who differed with you did not do his duty; but, Mr. President, I think the Senator would not seriously contend that we would not have a vote on it, and if we are to vote on it, of course it implies that somebody is at liberty to vote against.

Mr. BACON. I want to suggest that possibly the section of the Constitution to which the Senator from Iowa has alluded does not mean exactly what the Senator recognizes as the meaning and the test of what the Senator from Idaho said.

As I understood the Senator from Idaho, the Senator said that under no circumstances would he vote to call a convention with power to change the Constitution; that is, to make a new Constitution. I understand the section the Senator from Iowa read to be this, that the convention thus called shall have the power simply to propose amendments—

Mr. HEYBURN. That is right.

Mr. BACON. And those amendments would have to be adopted by three-fourths of the States in the same way that an amendment proposed by Congress has to be adopted—

Mr. CUMMINS. Precisely.

Mr. HEYBURN. Which is a very different thing from a convention being called with unlimited power to make a new Constitution.

Mr. CUMMINS. A convention called would have unlimited power to propose amendments.

Mr. BACON. Yes; but I did not understand the Senator from Idaho to mean that. He spoke of unlimited power, and I understood the Senator from Idaho to refer to a convention which should be called, which would have the power, without limitation, to make a new Constitution.

Mr. HEYBURN. I so stated.

Mr. BACON. Yes.

Mr. CUMMINS. Of course, the Senator from Georgia knows well, as does the Senator from Idaho, that there is no power on the part of any Senator to vote at any time for a constitutional convention unless compelled to do it by the application of two-thirds of the States. The vote would be absolutely nugatory; it would have no validity; and no Senator could vote for a proposition to call a constitutional convention unless that power had been invoked by two-thirds of the legislatures of the Union. I understood the Senator from Idaho to say that under no circumstances would he vote for a constitutional convention having unlimited power—

Mr. HEYBURN. Yes; but—

Mr. CUMMINS. To propose amendments to the Constitution.

Mr. HEYBURN. The unlimited power to propose amendments to the Constitution.

Mr. CUMMINS. Precisely. I thought I did not misunderstand the Senator from Idaho.

Mr. HEYBURN. The Senator did not misunderstand me.

Mr. CUMMINS. While I am on my feet I want to refer the Senator from Idaho, if he will permit me, to a little history in connection with the applications made by the States for a constitutional convention. I am quite familiar with it, and I have no doubt the Senator from Idaho is familiar with it. For years and years the legislatures of various States—very many States, I think 30, in all—have been asking Congress to submit an amendment to the Constitution providing for the election of Senators by direct vote. The Senate of the United States has resolutely refused it.

Mr. HEYBURN. I want to ask the Senator a question.

Mr. CUMMINS. Just a moment, and then I will finish.

Mr. HEYBURN. I may forget it.

Mr. CUMMINS. That would not be an unalloyed misfortune. But these States, despairing of securing any action on the part of the Senate of the United States for the submission of such an amendment, have resorted to the only way that remains to them for proposing such an amendment, namely, by the application of such number of the States as will compel a constitutional convention.

Mr. HEYBURN. The States have no authority, nor are they warranted in lobbying with Congress on a question of this kind. These demands the Senator speaks of are mere impertinences on the part of individual members of the legislature; that is all.

The Constitution tells the States how they may amend the Constitution, and there has not at any time been enough States—that is, a constitutional number of States—to demand it. They are like a lot of people I have seen in this world who were in the minority and insisted they should have their way notwithstanding that.

Now, less than two-thirds of the States, I believe, constitute a minority under the Constitution, because it requires two-thirds of the States to make a request, and Congress has no right to act upon the demand of less than two-thirds of the States, and there has never been a time when two-thirds of the States asked for the submission of this question of a constitutional convention. There never has been a time when Congress could legally act under that provision of the Constitution which says that they shall submit it upon the request of the legislatures of the States. There is not a line in the Constitution of the United States that authorizes the legislatures of the States to demand at the hands of this higher body that they shall act in a given way upon a question which can not originate with the States and about which they have nothing to do. That is about as plain as I can make it.

That is the situation to-day. We are being held up here with a demand that we shall comply with a demand that never was made. We are being held up here with a demand that we shall do something for which there is no warrant of law. I admit that Congress may of its own volition submit proposed amendments to the legislatures of the States—to that unholy combination of men selected to represent the citizenship of the States—and if the legislatures of three-fourths of the States adopt it, it becomes a part of the Constitution.

But if we were to comply with the request of the 17 States whose petitions are on file here, that a constitutional convention should be called, then it would not be submitted to the legislatures of the States, but it would be submitted to the people. Why do they not do it? They are clamoring that this question shall be submitted to the people. There is a constitutional method by which it may be submitted to the people and get around the legislature. Why do they not do it? It is because the constitutional majority of the people of the country do not want it. That is why. The Constitution, Article V, speaks of the method by which constitutional conventions are called. There they go outside of the legislature, and the legislature does not participate in it at all. The people do it by convention, or in such manner as they may prescribe. Yet we hear all this clamor about what the people want and the people have not indicated that they want it in a constitutional manner, and no Senator is under any obligation in this body to support this resolution because his legislature has voluntarily gone outside of and beyond the performance of its duties in undertaking to meddle and interfere with the duties of Congress. Then, what are they proposing?

Mr. NELSON. Mr. President—

The PRESIDING OFFICER (Mr. CURTIS in the chair). Does the Senator from Idaho yield to the Senator from Minnesota?

Mr. HEYBURN. Yes.

Mr. NELSON. The Senator is conducting a very able discussion, and I should be very glad to have his views on the repeal or emasculation of section 4 of Article I.

Mr. HEYBURN. I will give that in a few minutes, and it will not take long.

Mr. President, while I am drawing the comparison as to the tribunals to which this question should be submitted, let me compare for a moment the legislatures of the various States with the proposed substitute. One represents organized government and the other represents unorganized government. The election booths down along wharves and rivers and in the heated centers of the big cities represent organized government, and yet every vote that is cast there is as potent in determining a United States Senator under this resolution as is the vote of a man who has won a place in the confidence of the people of a great State—won a place because of his honor and his honesty and his intelligence and his judgment, and yet you would substitute the action of an irresponsible voter who can vote and in five minutes be lost forever. Compare them. Mr. President, the consequences are something fearful to contemplate. Out of all the States that have been called upon during the last month to select Senators of the United States, I think but four have postponed that duty to this hour, and those States will at the end of the session show as good a record for legislation as the States which elected their Senators on the first day that they might elect under the Constitution. One might suppose from what we hear and read that the legislatures were hotbeds of corruption pending and during the time they were engaged in selecting a Senator.

The Idaho Legislature sent my colleague here—they elected him the first day and hour that it was possible to elect a Senator under the law. They were competent—

Mr. BORAH. Is the Senator referring to me?

Mr. HEYBURN. Yes; I say the legislature that elected my colleague did not lose an hour or a minute doing it, nor did they sacrifice public interest in doing it.

Mr. BORAH. Mr. President—

The PRESIDING OFFICER. Does the Senator from Idaho yield to his colleague?

Mr. HEYBURN. Yes.

Mr. BORAH. I appreciate the suggestion of the Senator, but the legislature which elected me elected under direct instructions of a popular vote, which I felt the necessity of getting in order that I might be sure to get the other.

Mr. HEYBURN. My colleague needed no such instructions. The legislature would have elected him as promptly without them.

I told the convention that placed me in nomination for United States Senator that they did not have any right to do it, and that I did not recognize their right to do it; that it was a function to be performed by the legislature when they met; that their first duty was to elect a Republican legislature and let me take my chances. They elected me at the earliest hour an election could be made.

Mr. BORAH. Mr. President—

The PRESIDING OFFICER. Does the Senator from Idaho yield to his colleague?

Mr. HEYBURN. Yes.

Mr. BORAH. My colleague, however, advised the convention of that fact after it had passed the resolution nominating him. [Laughter.]

Mr. HEYBURN. I can not express my admiration of that statement, and I think when the Senator has thought over it he probably will wish he had not made it, because I had spoken to the convention before, and I had spoken to every convention in that State for a pretty long lifetime along those lines. I am sorry to have brought in the consideration of the question the necessity that forced my colleague to make the statement as though my views had not been known or stated before.

Mr. BORAH. I think my colleague misinterpreted my object in making that remark; and if so, I will withdraw it. I did not intend it in the manner in which he interprets it.

Mr. HEYBURN. It is all right; there is no harm done. My colleague is not capable of doing a mean thing. We all make mistakes.

Mr. President, let us get away from that side of it. I want the Senate to know that at least there the question of electing a United States Senator was not one of delay, nor was it the excuse for corruption, nor did it promote any corruption or discreditable condition. That is true 99 times out of 100. I see before me Senators who have spent more than a quarter of a century in this body, and no man ever dared to breathe a word of suspicion against the integrity of the body that sent them, and no man ever claimed that any other method would have sent abler, better, or purer men to this body.

Are you going to discredit the character of Senators by undertaking a change in the manner of selecting them in order that you may get better Senators, who will more ably and accurately represent the views of the people? Is that the purpose? That implies a confession that ought to humiliate any man. No; you are going to do it because some person not here sought the position and failed because the people did not want him. Discontent in politics never comes from the majority; it comes from the minority. Sometimes a portion of the majority are led to believe that there is something wrong, and they are led to conceive the necessity of a change and to agree with it. But they awaken by and by and they realize that they have been made the convenient instrument of somebody else's ambition or somebody else's revenge. Does not the standard of the United States Senate measure in this age to that of any other age? Have we degenerated?

Senators have been clamoring for a vote. I was rather impressed with the suggestion that was made yesterday. I will have to deal with it rather gently. Senators had spoken with eloquence and fluency, and doubtless thought that they had exhausted the subject and nothing more could be said, and as they brought down the arm in its oratorical flight, they said, "Now, let us vote, and vote quick, before anybody can think."

Mr. President, this is not the place for that kind of deliberation. We have heard from those who wanted the change, while they have avoided the question as to why they wanted it. They have rather dwelt upon the glories in which they would dwell after they had it. I want to consider the conditions before, when a change is proposed. I want to consider existing conditions.

There is no necessity to cast an eye into the future until you have determined by the exercise of the very best wisdom you can control that you are going there.

I have seen men who would sit amid the disorder of their own neglected homes and farms and look out in envy over the lands of those who were more frugal and better husbandmen, while the weeds grew up and smothered them in their homes and their neighbor prospered. Let us look to the present in this matter. Under what are we suffering, because unless there is a reason for the change no thinking man will want it, unless it is for political gain or to satisfy the vain dreams of ambition or to be the apostle of some great change—noted for it; stand out in history as the man who brought about a change in the Constitution of the United States that wrecked it. Yes; some men do build themselves monuments because of the wrong they do, and to some men monuments are builded because of the good they do.

I feel more strongly upon this question than upon any question that I have ever participated in since the days of my responsibility as a citizen of the United States.

I have participated in great struggles in civil life where great interests were involved; I have participated in the proceedings of this body for eight years, where were involved only transient things or things that might be corrected should they prove to be mistakes; and I have been content, reasonably so, with the result; content with verdicts against me, judgments of the courts against me, votes in this body against measures that I deemed of great importance; but I always had the consolation of knowing that there was a to-morrow and that when wrong was shown to have been done right would come to the rescue. But when you make this change in the Constitution of the United States—and there are only a few men here who ever participated in changing the Constitution—when you make it and wake up some morning and find that it has failed of the purpose you had in mind, remember that you have no cable that binds you to the shore.

The Senator wants to know about the Sutherland amendment. It is the lesser question in one sense and the greater in another. The Sutherland amendment merely says, "Hands off." It does not propose to change the existing provisions of the Constitution. It is a protest against this raid upon the Constitution; that is all. I have heard it discussed here frequently as though it was a proposition of some new legislation. It is not. As I said in the letter which I read at the beginning of my remarks, it is a proposition merely that we do not change the Constitution.

Every presumption is in favor of the Sutherland amendment. I want to know from that side of the Chamber, if this proposed change is as harmless as you picture it, why do you want it?

Mr. BACON. I desire to say to the Senator from Idaho that I do not so regard it—as harmless.

Mr. HEYBURN. I exempt the Senator from Georgia from that suggestion; but other Senators have to-day, and on other days, said, if not in words in the effect of words, that it would be a condition controlling them in casting their vote upon this joint resolution.

Mr. BACON. I will say to the Senator very frankly that I expect it to control me. I do not give that as a final statement; that is my present expectation; and while I do not desire to enter into a discussion of it now, I will make one suggestion to the Senator, with his permission, as to the feature in which it will be a great change, not by way of general description of it but by way of illustration.

The Senator is familiar with what we know as the election laws which were repealed in 1893. I know that, because there is no Senator in this Chamber more familiar with the statute law of the United States than the Senator from Idaho, he having been for several years laboriously and industriously engaged in a revision of those laws. The Senator, I have no doubt, is also familiar with the bill which passed the House of Representatives in 1890 and came to this body and was favorably reported and occupied the attention of this body for possibly two months—I do not know exactly how long—and was at last defeated by a very narrow margin, known as the force bill, which was of a kindred character with the election laws and intended as an amendment of them and as an extension of them.

The single point to which I desire to call the attention of the Senator without now going into the details, although I may do so a little later, is that those laws were applicable only to the election of Representatives and could not be applicable under the present law to the election of Senators; and if this law is changed, so as to make it an election by the people, with the Sutherland amendment, leaving the present words, if you please, applicable to changed and new conditions, the changes will be most vital and far-reaching, and, unless I change my mind very



much, sufficient in their character in that respect to prevent my voting for the joint resolution if that is put upon it.

Mr. HEYBURN. Mr. President, I gave considerable attention to the authorities that have been discussed to-day affecting the fourteenth and fifteenth amendments to the Constitution. I had thought that I would enter into the consideration of the effect of those amendments to the Constitution to some extent, but I am impressed, whether I have impressed anyone else or not, with the fact that there are greater questions involved that are sufficient to control to my judgment, and, I trust, that of some others in determining this question. I have, therefore, devoted my time to a discussion of the practical side of the measure rather than the technical side. I am familiar with every decision that has been rendered affecting these amendments. I had occasion at other periods of my life to deal with them in a responsible way; but I do not believe it is necessary, in order to discuss and arrive at an intelligent conclusion, to go into the technical distinctions drawn by the courts in regard to the rights of the people in the particular cases considered under these amendments.

I would merely direct the attention of the Senate to the fact that in the fourteenth amendment Congress is given power to extend its hand down as far as the legislature of the State. That opens up rather a large question, one that I think it is not necessary to consider here. Some one has asked the question this afternoon, "What lies beyond that time when a State shall refuse to be a State?" Well, Territory lies beyond that. The Government of the United States, under the terms of the Constitution, may organize new States where no States exist, and a State does not exist that is not represented, or that refuses to be represented, in the Congress of the United States. The Congress of the United States made the States with the exception of the original colonies, and the original colonies by contract submitted to the dominion of the power which they themselves created. They created a power under a contract to submit to it as the governing power over them all. If any State thinks it can secede from the Union by a failure to perform the duties of statehood, let it try it, and it will have a Territorial governor placed over it.

Mr. RAYNER. Mr. President—

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Maryland?

Mr. HEYBURN. Yes.

Mr. RAYNER. Does the Senator contend that if a State does not send Senators here we can organize it into a Territory?

Mr. HEYBURN. Certainly. If a State is no longer a State it is public domain, a part of the territory of the United States. Anything else is to contend for the right of secession from the Union. Is there a man living to-day who will contend for that?

Mr. RAYNER. But does the Senator contend as a legal proposition that if a State should fail to send Senators here we could organize it into a Territory?

Mr. HEYBURN. Certainly; the Government has had to do it before.

Mr. RAYNER. For a failure to send Senators here?

Mr. HEYBURN. The United States has had to provide for the organization of governments in States where the States refused to organize and maintain a government that was a part of the United States, and they can do it again, and again, if necessary. Why in this case force up a controversy of that kind? We know that the Government can do it, and we know that it has done it. Now, I will not invade that field further than to say that there is no terror in the threat that some State may not send Members of Congress or Senators into the Congress of the United States.

Mr. BACON. I should like to ask the Senator who has ever made such a threat. Does not the Senator know that the condition of a State refusing to send Senators or Representatives to Congress is not one that can possibly exist?

Mr. HEYBURN. Not one; that is impossible.

Mr. BACON. I mean to say there is no possibility—

Mr. HEYBURN. No; not a particle.

Mr. BACON. That such a condition of affairs should arise.

Mr. HEYBURN. Not the slightest. It is discussing an academic question.

Mr. BACON. Then why discuss it?

Mr. HEYBURN. It has been brought into the consideration of this question to-day, and I felt like saying just a few words about it. There are no terrors in it at all for me.

Mr. RAYNER. It was brought in because Mr. Webster declared, in perhaps the greatest debate that ever took place on this floor, that there is no way to coerce a State to do it. That is the reason why it was brought in.

Mr. HEYBURN. Mr. President, I have a high regard for Mr. Webster, but if the generations of to-day are not as competent or more so to determine this question than was that man, great in his day, then the world has not advanced; that is all. We are not bound by any such precedent. There are many men on this floor whose learning and ability would confound the statesmen of that age. Things have happened in this country since that time. We have had to learn sharp lessons under pressure, and we have learned them, and we have proven ourselves capable of maintaining, aye, of defending and saving them, and those who in that day opposed us are to-day with us. As the Senator from Georgia [Mr. BACON] says, there is no possible room for even conjecture as to a State going out of existence. So we pass that by.

The Sutherland amendment, I repeat to the senior Senator from Minnesota, meets with my approval because it simply says that we will not lose that much of the Constitution anyhow if some accident does happen to us in regard to another part of it. Of course, I shall support the Sutherland amendment, just as I would reach out and grab the last of an escaping treasure. If I knew that there rested in the hearts of the Members of this body the same sentiment that will actuate me in casting my vote on the Sutherland amendment I would yield the floor now, or I never would have taken it this afternoon. But I want to know it. I would stay here and fret the ears of the Senate for some time to come if I thought that such labor was demanded as a price for preserving the Constitution of the United States.

I would do more than that, but that I would do. All I want to know is that there are enough patriotic men to save in this hour that portion of the Constitution, and then in the hours that will follow between this and adjournment I propose to fight as I would fight on a field of battle for what is left of that provision of the Constitution. Senators may have due warning of my temper in this matter. I am assured that there is enough strength in this body to adopt the Sutherland amendment. In faith of that I am going to conclude my remarks with the promise that if it is not adopted there will not be much progress in what is left of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Utah [Mr. SUTHERLAND].

Mr. GALLINGER. The yeas and nays have been ordered.

Mr. BACON. Mr. President, I desire now to call for the yeas and nays rather than to have the question discussed as to whether a call for the yeas and nays some two or three weeks ago is now to be entertained.

The PRESIDING OFFICER. What is the Senator's question?

Mr. BACON. I call for the yeas and nays.

The PRESIDING OFFICER. The Chair is informed that the yeas and nays have already been ordered upon the amendment.

Mr. BACON. I call for the yeas and nays upon it.

The PRESIDING OFFICER. The Senator from Georgia demands the yeas and nays on the amendment of the Senator from Utah.

The yeas and nays were ordered.

Mr. BORAH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

Mr. NELSON. Mr. President, it was my purpose to make a few remarks upon the proposition before the Senate. It is now late. There are other Senators who want to speak on it. I do not expect to take a great deal of time. I suggest to the Senator from Idaho that the joint resolution go over until to-morrow.

Mr. KEAN. Let it go over until Monday.

Mr. NELSON. I have no purpose to delay it.

Mr. BORAH. I am just as anxious to make headway as possible. At the same time, of course, I am anxious to accommodate the Senator from Minnesota and all other Senators. If I can have an agreement that we will vote upon amendments to the joint resolution and upon the joint resolution upon a certain day I should be glad to accommodate Senators. But if we can not have an agreement, there is only one way by which we can make progress, and that is to stay here and talk, and vote as we get a chance.

Mr. SUTHERLAND. Mr. President—

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Utah?

Mr. BORAH. I do.

Mr. SUTHERLAND. Let me suggest to the Senator from Idaho that he modify his request for unanimous consent and ask unanimous consent that we may vote upon the pending amendment on Monday.

Mr. GALLINGER. At a given hour.

Mr. OVERMAN. There are to be memorial exercises on Monday.

Mr. LODGE. Mr. President—

The PRESIDING OFFICER. The Senator from Idaho has the floor. Does he yield to the Senator from Massachusetts?

Mr. BORAH. I yield to the Senator from Massachusetts.

Mr. LODGE. I ask, in furtherance of the suggestion of the Senator from Utah, why can we not agree to vote on the amendment to-morrow at 2 o'clock? The special order does not begin until half past 2. We shall have two hours and a half. We might as well get something done, if possible, in that time.

Mr. BACON. Mr. President—

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Georgia?

Mr. BORAH. I do.

Mr. BACON. I simply want to make a suggestion. I have no disposition to delay the vote upon the amendment. I would dislike to agree to a specific hour, because in that case we may find that the vote is pressed at a time when possibly a Senator would like to make some rejoinder to what has been said, or would desire an opportunity to say something. I am perfectly willing to agree that on Monday the vote shall be taken. It will be impossible to agree for it to-morrow because of the special order which has been assigned for that day.

Mr. MARTIN. Mr. President—

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Virginia?

Mr. NELSON. Will the Senator from Idaho yield to me for a minute?

Mr. BORAH. I yield to the Senator from Minnesota.

Mr. NELSON. I suggest that we agree, by unanimous consent, to take up the joint resolution immediately after the morning business to-morrow and go on with its consideration until the time for the special order.

Mr. BEVERIDGE. There are to be eulogies to-morrow.

Mr. GALLINGER. Not until 2.30.

Mr. SCOTT. Will the Senator from Idaho yield to me for a moment?

Mr. BORAH. I yield to the Senator from West Virginia.

Mr. SCOTT. I hope it will be the pleasure of the Senate to set a time to-morrow to vote because of the pension bill that is here and that must be taken up. I want to have that bill considered at the very earliest possible moment. It looks to me as though this delay was for the purpose of trying to defeat that bill.

Mr. BORAH. Mr. President—

Mr. SCOTT. I should like to vote now.

Mr. MARTIN. Mr. President—

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Virginia?

Mr. BORAH. I do.

Mr. MARTIN. I simply want to call attention to the fact that 2.30 on Monday has been assigned and that memorial exercises will then be in order. In fixing a time for the disposition of this measure I call attention to that fact so that there may be no conflict.

Mr. NELSON. Will the Senator from Idaho allow me to make a suggestion, and that is to ask unanimous consent for a vote at 2 o'clock on Monday, or any hour on Monday, on the Sutherland amendment?

Mr. BORAH. No; Mr. President, I do not want to agree to that, but I will ask for unanimous consent to take up this matter on Wednesday and vote upon all amendments and upon the joint resolution before the conclusion of the legislative day.

Mr. NELSON. On what day?

Mr. BORAH. On Wednesday.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Idaho?

Mr. BACON. What is the request?

Mr. BEVERIDGE. To vote on Wednesday.

Mr. NELSON. Of next week.

The PRESIDING OFFICER. Will the Senator from Idaho please state his request again?

Mr. BORAH. I ask unanimous consent that the joint resolution now before the Senate may be taken up next Wednesday, immediately after the conclusion of the routine morning business, and that all amendments thereto and the joint resolution itself may be voted on before the adjournment on that day.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Idaho?

Mr. HEYBURN. I object.

The PRESIDING OFFICER. Objection is made.

Mr. SCOTT. Before it is agreed to, I ask whether this measure will come up as the unfinished business every day to haunt those of us who are trying to get up other business.

Mr. BORAH. If I can have a time agreed on to vote there will be no necessity of its standing in the way of any other measure.

The PRESIDING OFFICER. Objection has been made to the request of the Senator from Idaho.

Mr. GALLINGER. The regular order.

The PRESIDING OFFICER. The regular order is calling the roll to ascertain whether there is a quorum present. The Secretary will call the roll.

The Secretary proceeded to call the roll, and called the name of Mr. ALDRICH.

Mr. HEYBURN. Mr. President—

Mr. BEVERIDGE. Regular order!

Mr. HEYBURN. There has been no response, and I was recognized by the Chair.

Mr. LODGE. This whole debate has been proceeding out of order, after the point of no quorum had been made.

Mr. BEVERIDGE. The roll call must proceed.

Mr. LODGE. Nothing else is in order.

Mr. HEYBURN. Then this is a call for a quorum?

Mr. LODGE. Certainly.

The PRESIDING OFFICER. The Secretary will call the roll. The Secretary called the roll, and the following Senators answered to their names:

Bacon	Cullom	Jones	Richardson
Beveridge	Cummins	Kean	Scott
Borah	Curtis	La Follette	Shively
Bourne	Depew	Lodge	Simmons
Brandeggee	Dick	Lorimer	Smith, Md.
Briggs	Dillingham	McCumber	Smith, Mich.
Bristow	Dixon	Martin	Smith, S. C.
Brown	du Pont	Nelson	Smoot
Bulkeley	Fletcher	Newlands	Stephenson
Burnham	Flint	Nixon	Stone
Burton	Foster	Overman	Sutherland
Carter	Frye	Owen	Swanson
Chamberlain	Gallinger	Page	Taylor
Clapp	Gamble	Paynter	Thornton
Clark, Wyo.	Gore	Penrose	Tillman
Clarke, Ark.	Gronna	Percy	Warner
Crane	Guggenheim	Perkins	Warren
Crawford	Heyburn	Piles	Watson
Culberson	Johnston	Rayner	Wetmore

The PRESIDING OFFICER. Seventy-six Senators have responded to their names. A quorum is present.

Mr. GALLINGER. I move that the Senate adjourn.

Mr. BORAH. Mr. President—

The PRESIDING OFFICER. The question is not debatable.

Mr. BORAH. I am not going to debate it; I understand the rules of the Senate. I ask for the yeas and nays upon that motion.

The yeas and nays were ordered; and, being taken, resulted—yeas 37, nays 44, as follows:

#### YEAS—37.

Bacon	Curtis	Kean	Stephenson
Brandeggee	Depew	Lodge	Sutherland
Briggs	Dick	Lorimer	Tallaferro
Bulkeley	Dillingham	McCumber	Warner
Burnham	du Pont	Nelson	Warren
Burton	Flint	Oliver	Wetmore
Carter	Frye	Page	Young
Clark, Wyo.	Gallinger	Penrose	
Crane	Guggenheim	Richardson	
Cullom	Heyburn	Smoot	

#### NAYS—44.

Bailey	Cummins	Martin	Shively
Beveridge	Davis	Newlands	Simmons
Borah	Dixon	Nixon	Smith, Md.
Bourne	Fletcher	Overman	Smith, Mich.
Bristow	Frazier	Owen	Smith, S. C.
Brown	Gamble	Paynter	Stone
Chamberlain	Gore	Percy	Swanson
Clapp	Gronna	Perkins	Taylor
Clarke, Ark.	Johnston	Piles	Thornton
Crawford	Jones	Rayner	Tillman
Culberson	La Follette	Scott	Watson

#### NOT VOTING—10.

Aldrich	Burkett	Hale	Terrell
Bankhead	Burrows	Money	
Bradley	Foster	Root	

So the Senate refused to adjourn.

The PRESIDING OFFICER. The question is upon the amendment proposed by the Senator from Utah [Mr. SUTHERLAND] to the joint resolution.

Mr. NELSON. Mr. President, I had hoped that the Senator in charge of this joint resolution would extend to me the usual courtesy which has been extended to other Senators and would have allowed the joint resolution to go over until to-morrow morning, instead of forcing me to speak now. Of course, if the



Senator insists upon my going on, I shall have to submit a few remarks this evening, but I have been here all day ready to proceed without being able to get an opportunity to do so, and I prefer to go on in the morning.

Mr. BORAH. Mr. President—

The PRESIDING OFFICER. Does the Senator from Minnesota yield to the Senator from Idaho?

Mr. NELSON. Certainly.

Mr. BORAH. Mr. President, the Senator from Idaho feels that he has extended every courtesy that is possible in view of the evident disposition on the part of those in opposition that there shall be no vote at all upon the joint resolution. I should be very glad, indeed, to accommodate the Senator from Minnesota [Mr. NELSON], if I could have any assurance that there is any disposition to permit us to take a vote upon this measure. I am forced to conclude, however, that there is only one way to get a vote, and that is to pursue the course which we have been compelled to pursue.

We are now within two weeks of the close of the session, and I do not think this measure ought to stand in the way of other important business. There are a number of measures here which ought to have the consideration of the Senate, and I feel that it is my duty, being in charge of the joint resolution, to get it out of the way just as rapidly as possible. At the same time, I can not place the measure in a position where there is liable to be no vote upon it at all. I think if the Senator from Minnesota will reflect for a moment he will see that I am not in a position, in view of the situation here, to extend any other courtesy than I have done, much as I should like to do so.

Mr. NELSON. I suggest that the Senator might extend the courtesy, if it is agreed to take up the measure to-morrow and go on with it immediately after the routine morning business.

Mr. GALLINGER. Mr. President—

The PRESIDING OFFICER. Does the Senator from Minnesota yield to the Senator from New Hampshire?

Mr. NELSON. I do.

Mr. GALLINGER. Mr. President, in view of the observations made by the Senator in charge of the joint resolution, I wish to say that I trust he did not apply his remarks to me. I made a motion to adjourn because I felt that we had sat here long enough to-day, and I did not think we would come to an agreement this evening. I am in favor of taking a vote on the joint resolution soon, the sooner the better, and I had hoped we would have taken it an hour ago, when there was a disposition on the part of many Senators to do so. I want the Senator to understand that I did not use any obstructive tactics, and I am not going to do so.

Mr. BORAH. Mr. President, my observations were not personal at all and were not intended for the Senator from New Hampshire; but I have asked for unanimous consent as far in advance as next Wednesday to dispose of this matter, and the fact that that has been denied is convincing proof to anyone that there is a disposition to prevent any vote at all.

Mr. NELSON. Mr. President, it is not my purpose—

Mr. BEVERIDGE. Mr. President—

The PRESIDING OFFICER. Does the Senator from Minnesota yield to the Senator from Indiana?

Mr. NELSON. I do.

Mr. BEVERIDGE. For what it may be worth, I make the suggestion that when the Senate adjourns to-day it be to meet at 11 o'clock to-morrow morning. I suppose that we may not be able to hold the session much longer than an hour now, and the adoption of my suggestion would give more time to-morrow. I do not make a motion, but merely a suggestion, and I make it for what it may be worth.

Mr. CULBERSON and others. Regular order!

Mr. NELSON. Mr. President, it is not my purpose to enter into any extended argument upon this measure. I intend for a few moments, briefly, to call the attention of the Senate to the importance of what is known as the Sutherland amendment; but before I go into that question—

Mr. LODGE. Mr. President—

The PRESIDING OFFICER. Does the Senator from Minnesota yield to the Senator from Massachusetts?

Mr. NELSON. I do, temporarily.

Mr. LODGE. Mr. President, it is very unusual at this late hour of the day, when a Senator asks, as the Senator from Minnesota [Mr. NELSON] has asked, that a measure be allowed to go over until morning, to compel him to take the floor and speak. I have been anxious for the Senate to take a vote on this measure at any time. I have another measure which I want to bring before the Senate. I do not believe there is any desire to unduly delay the joint resolution under consideration; but it is very unusual, indeed, to refuse a request such as the

Senator from Minnesota has made, and such methods can lead to no promotion of the progress of this measure.

I move that the Senate proceed to the consideration of executive business.

Mr. BEVERIDGE. I hope the Senator will withhold that.

Mr. BORAH. Mr. President—

Mr. LODGE. It is the only motion that is open to me, and I make it.

Mr. BORAH. On that motion I ask for the yeas and nays.

The yeas and nays were ordered and taken.

Mr. DILLINGHAM (after having voted in the affirmative). I inquire whether the senior Senator from South Carolina [Mr. TILMAN] has voted.

The PRESIDING OFFICER. The Chair is informed that he has not voted.

Mr. DILLINGHAM. The Senator from South Carolina asked me to observe our pair on this question, and therefore I withdraw my vote.

The result was announced—yeas 46, nays 34, as follows:

#### YEAS—46.

Bacon	Dick	Nelson	Simmons
Brandeggee	du Pont	Nixon	Smoot
Briggs	Flint	Oliver	Stephenson
Bulkeley	Frye	Overman	Sutherland
Burnham	Gallinger	Page	Tallaferro
Burton	Guggenheim	Paynter	Thornton
Carter	Heyburn	Penrose	Warner
Clark, Wyo.	Johnston	Perkins	Warren
Crane	Kean	Piles	Wetmore
Cullom	Lodge	Richardson	Young
Curtis	Lorimer	Root	
Depeu	McCumber	Scott	

#### NAYS—34.

Bankhead	Crawford	Gronna	Smith, Md.
Beveridge	Culberson	Jones	Smith, Mich.
Borah	Cummins	La Follette	Smith, S. C.
Bourne	Davis	Martin	Stone
Bristow	Dixon	Newlands	Swanson
Brown	Fletcher	Owen	Taylor
Chamberlain	Frazier	Percy	Watson
Clapp	Gamble	Rayner	
Clarke, Ark.	Gore	Shively	

#### NOT VOTING—11.

Aldrich	Burkett	Foster	Terrell
Bailey	Burrows	Hale	Tillman
Bradley	Dillingham	Money	

So the motion was agreed to; and the Senate proceeded to the consideration of executive business. After seven minutes spent in executive session the doors were reopened, and (at 5 o'clock and 50 minutes p. m.) the Senate adjourned until to-morrow, Saturday, February 18, 1911, at 12 o'clock meridian.

#### NOMINATIONS.

*Executive nominations received by the Senate February 17, 1911.*

##### COLLECTOR OF CUSTOMS.

Floyd Hughes, of Virginia, to be collector of customs for the district of Norfolk and Portsmouth, in the State of Virginia. (Reappointment.)

##### SURVEYOR OF CUSTOMS.

Cadet Taylor, of Nebraska, to be surveyor of customs for the port of Omaha, in the State of Nebraska, in place of Benjamin H. Barrows, deceased.

##### UNITED STATES ATTORNEY.

Byron S. Ambler, of Ohio, to be United States attorney, district of Porto Rico, vice Jose R. F. Savage, whose term has expired.

##### SECRETARY OF PORTO RICO.

M. Drew Carrel, of Illinois, to be secretary of Porto Rico. (Reappointment.)

##### PROMOTIONS IN THE NAVY.

Commander George R. Salisbury to be a captain in the Navy from the 14th day of November, 1910, vice Capt. Thomas B. Howard, promoted.

Commander Frank W. Kellogg to be a captain in the Navy from the 14th day of January, 1911, vice Capt. Walter C. Cowles, promoted.

Lieut. Commander Warren J. Terhune to be a commander in the Navy from the 7th day of January, 1911, vice Commander Robert F. Lopez, promoted.

Lieut. Commander William K. Harrison to be a commander in the Navy from the 14th day of January, 1911, vice Commander Frank W. Kellogg, promoted.

Lieut. (Junior Grade) Nelson H. Goss to be a lieutenant in the Navy from the 1st day of July, 1910, vice Lieut. Fletcher L. Sheffield, promoted.

Lieut. (Junior Grade) Wilhelm L. Friedell to be a lieutenant in the Navy from the 14th day of October, 1910, vice Lieut. George T. Pettengill, promoted.

Lieut. (Junior Grade) Gordon W. Haines to be a lieutenant in the Navy from the 20th day of November, 1910, vice Lieut. Arthur G. Caffee, deceased.

Boatswain John Davis to be a chief boatswain in the Navy from the 16th day of May, 1910, upon the completion of six years' service as a boatswain.

Boatswain William Jaenicke to be a chief boatswain in the Navy from the 30th day of July, 1910, upon the completion of service as a boatswain of six years plus one year during suspension from promotion after failure at examination.

#### POSTMASTERS.

##### CALIFORNIA.

Pierce J. Elliott to be postmaster at Sausalito, Cal., in place of Pierce J. Elliott. Incumbent's commission expired January 23, 1911.

Matthew W. Grace to be postmaster at Lindsay, Cal., in place of Matthew W. Grace. Incumbent's commission expired January 18, 1911.

J. N. Hollis to be postmaster at Gridley, Cal., in place of Renaldo E. Taylor. Incumbent's commission expired February 12, 1911.

##### COLORADO.

Hockley T. Hamill to be postmaster at Georgetown, Colo., in place of Hockley T. Hamill. Incumbent's commission expired January 30, 1911.

##### IDAHO.

Jake Horn to be postmaster at Caldwell, Idaho, in place of Sophia Davis, resigned.

##### ILLINOIS.

George M. Bell to be postmaster at Sherrard, Ill. Office became presidential July 1, 1910.

Robert J. Hemphill to be postmaster at Ridgway, Ill. Office became presidential January 1, 1911.

Grant S. Remsburg to be postmaster at Ohio, Ill. Office became presidential October 1, 1910.

Jeter C. Utterback to be postmaster at Salem, Ill., in place of Jeter C. Utterback. Incumbent's commission expires February 28, 1911.

##### IOWA.

George T. Clevidence to be postmaster at Humboldt, Iowa, in place of Joseph W. Foster. Incumbent's commission expired January 10, 1911.

William H. McClure to be postmaster at Fontanelle, Iowa, in place of William H. McClure. Incumbent's commission expired January 31, 1911.

##### KANSAS.

O. F. Falls to be postmaster at Valley Falls, Kans., in place of Frank C. Scott, resigned.

E. D. George to be postmaster at Mankato, Kans., in place of Joseph H. Woollen. Incumbent's commission expired January 10, 1911.

Cliff W. Weeks to be postmaster at Osborne, Kans., in place of James M. Morgan, resigned.

##### MAINE.

Harry R. Hichborn to be postmaster at Stockton Springs, Me., in place of Harry R. Hichborn. Incumbent's commission expired December 6, 1910.

Varney A. Putnam to be postmaster at Danforth, Me., in place of Varney A. Putnam. Incumbent's commission expires February 20, 1911.

##### MASSACHUSETTS.

John Huxtable to be postmaster at Wareham, Mass., in place of John Huxtable. Incumbent's commission expired January 7, 1911.

Joseph A. Legare to be postmaster at Lowell, Mass., in place of Albert G. Thompson, deceased.

##### MICHIGAN.

J. Burt Kiely to be postmaster at Roscommon, Mich., in place of William F. Johnston, resigned.

Flora MacLachlan to be postmaster at Grand Marais, Mich., in place of Flora MacLachlan. Incumbent's commission expires February 28, 1911.

George W. Minchin to be postmaster at Evart, Mich., in place of George W. Minchin. Incumbent's commission expired January 10, 1911.

##### MINNESOTA.

Alton Crosby to be postmaster at Willmar, Minn., in place of Alton Crosby. Incumbent's commission expired December 20, 1910.

John L. Grady to be postmaster at Cass Lake, Minn., in place of John L. Grady. Incumbent's commission expired January 23, 1911.

Mark Swedberg to be postmaster at Luverne, Minn., in place of Mark Swedberg. Incumbent's commission expires March 2, 1911.

Edward A. Wasserzieher to be postmaster at Deer Wood, Minn. Office became presidential July 1, 1910.

##### MISSISSIPPI.

Robert Burns to be postmaster at Brandon, Miss., in place of Robert Burns. Incumbent's commission expires March 2, 1911.

##### MISSOURI.

Willis E. Flanders to be postmaster at Paris, Mo., in place of Willis E. Flanders. Incumbent's commission expired June 7, 1910.

Ivan S. Goodwin to be postmaster at Gilman City, Mo. Office became presidential January 1, 1911.

William L. H. Silliman to be postmaster at Clarksville, Mo., in place of William L. H. Silliman. Incumbent's commission expired February 13, 1911.

##### NEBRASKA.

William L. Bennett to be postmaster at Bladen, Nebr. Office became presidential January 1, 1911.

Herbert G. Miller to be postmaster at Holbrook, Nebr. Office became presidential January 1, 1911.

Noble Sanford to be postmaster at Axtell, Nebr. Office became presidential January 1, 1911.

##### NEW JERSEY.

Edward E. Haines to be postmaster at South Amboy, N. J., in place of Frank E. De Graw. Incumbent's commission expires March 2, 1911.

Charles B. Hunter to be postmaster at Bergenfield, N. J. Office became presidential January 1, 1911.

##### NEW MEXICO.

Thomas Branigan to be postmaster at Las Cruces, N. Mex., in place of Thomas Branigan. Incumbent's commission expired February 11, 1911.

Robert E. Wherritt to be postmaster at Clayton, N. Mex., in place of Robert E. Wherritt. Incumbent's commission expired February 11, 1911.

##### NEW YORK.

Emil A. Peterson to be postmaster at Falconer, N. Y., in place of Emil A. Peterson. Incumbent's commission expired February 2, 1911.

Simon D. Replogle to be postmaster at Roslyn, N. Y., in place of Simon D. Replogle. Incumbent's commission expires February 28, 1911.

James A. Snell to be postmaster at Fonda, N. Y., in place of James A. Snell. Incumbent's commission expired January 16, 1911.

Frank Stowell to be postmaster at Mayville, N. Y., in place of Frank Stowell. Incumbent's commission expires February 28, 1911.

James A. Wilson to be postmaster at Sacket Harbor, N. Y., in place of James A. Wilson. Incumbent's commission expired February 12, 1911.

##### NORTH DAKOTA.

Niels G. Mosgaard to be postmaster at Scranton, N. Dak. Office became presidential October 1, 1910.

Horatio C. Plumley to be postmaster at Fargo, N. Dak., in place of Horatio C. Plumley. Incumbent's commission expires March 2, 1911.

##### OHIO.

Henry H. Coppock to be postmaster at Pleasant Hill, Ohio, in place of George W. Whitmer. Incumbent's commission expired February 2, 1911.

Don C. Corbett to be postmaster at Payne, Ohio, in place of Don C. Corbett. Incumbent's commission expired January 29, 1911.

Charles R. Crum to be postmaster at Forest, Ohio, in place of Charles R. Crum. Incumbent's commission expired February 2, 1911.

Edward J. Lewis to be postmaster at Girard, Ohio, in place of Edward J. Lewis. Incumbent's commission expired February 7, 1911.

##### OKLAHOMA.

Cassius M. Cade, jr., to be postmaster at Shawnee, Okla., in place of William S. Cade. Incumbent's commission expires March 2, 1911.



## PENNSYLVANIA.

Thomas H. Bailey to be postmaster at Mansfield, Pa., in place of Thomas H. Bailey. Incumbent's commission expired February 13, 1911.

Florence Bartow to be postmaster at Marcus Hook, Pa. Office became presidential January 1, 1911.

Theodore Lindermuth to be postmaster at East Mauch Chunk, Pa., in place of David P. Hughes. Incumbent's commission expired February 13, 1911.

William F. McDowell to be postmaster at Mercersburg, Pa., in place of William F. McDowell. Incumbent's commission expired February 4, 1911.

Earnest C. Pearce to be postmaster at Avonmore, Pa., in place of James A. Pearce, resigned.

Byron E. Staples to be postmaster at Jersey Shore, Pa., in place of Warren B. Masters. Incumbent's commission expires February 20, 1911.

## TENNESSEE.

James F. Collins to be postmaster at Spring City, Tenn. Office became presidential October 1, 1907.

## TEXAS.

Edward Blanchard to be postmaster at San Angelo, Tex., in place of Edward Blanchard. Incumbent's commission expires February 21, 1911.

Lucy Breen to be postmaster at Mineola, Tex., in place of Lucy Breen. Incumbent's commission expired February 13, 1911.

Josephine Chesley to be postmaster at Bellville, Tex., in place of Josephine Chesley. Incumbent's commission expired February 13, 1911.

Harry Harris to be postmaster at Gatesville, Tex., in place of Harry Harris. Incumbent's commission expires February 21, 1911.

J. Allen Myers to be postmaster at Bryan, Tex., in place of J. Allen Myers. Incumbent's commission expired February 7, 1911.

William Myers to be postmaster at Seguin, Tex., in place of William Myers. Incumbent's commission expired February 13, 1911.

William D. Rathjen to be postmaster at Canadian, Tex., in place of William D. Rathjen. Incumbent's commission expired February 13, 1911.

James A. Smith to be postmaster at El Paso, Tex., in place of James A. Smith. Incumbent's commission expires February 21, 1911.

## UTAH.

James Don to be postmaster at Park City, Utah, in place of Peter Martin, deceased.

## WISCONSIN.

C. L. Chistianson to be postmaster at Bloomer, Wis., in place of L. L. Thayer, resigned.

Alfred B. Kildow to be postmaster at Brodhead, Wis., in place of Alfred B. Kildow. Incumbent's commission expires February 28, 1911.

Leonard H. Kimball to be postmaster at Neenah, Wis., in place of Leonard H. Kimball. Incumbent's commission expires February 28, 1911.

## CONFIRMATIONS.

*Executive nominations confirmed by the Senate February 17, 1911.*

## RECEIVER OF PUBLIC MONIES.

Harold Hurd to be receiver of public moneys at Roswell, N. Mex.

## REGISTER OF LAND OFFICE.

Lee Fairbanks to be register of the land office at Del Norte, Colo.

## REAPPOINTMENT IN THE ARMY.

## QUARTERMASTER'S DEPARTMENT.

Brig. Gen. James B. Aleshire, Quartermaster General, to be Quartermaster General, with the rank of brigadier general, for the period of four years, beginning July 1, 1911, with rank from July 1, 1907. His present appointment will expire by limitation June 30, 1911.

## PROMOTIONS IN THE ARMY.

## JUDGE ADVOCATE GENERAL'S DEPARTMENT.

Lieut. Col. John A. Hull, judge advocate, to be judge advocate, with the rank of colonel, from February 15, 1911, vice Col. Enoch H. Crowder, who accepted an appointment as judge advocate general, with the rank of brigadier general, on that date.

Maj. John Biddle Porter, judge advocate, to be judge advocate, with the rank of lieutenant colonel, from February 15, 1911, vice Lieut. Col. John A. Hull, promoted.

## PORTO RICO REGIMENT OF INFANTRY.

First Lieut. Samuel S. Bryant to be captain.

Second Lieut. Louis S. Emmanuelli to be first lieutenant.

## APPOINTMENTS IN THE ARMY.

## JUDGE ADVOCATE GENERAL'S DEPARTMENT.

First Lieut. Edward A. Kreger, Twenty-eighth Infantry, to be judge advocate with the rank of major from February 15, 1911, vice Maj. John Biddle Porter promoted.

## INFANTRY ARM.

*To be second lieutenants with rank from February 11, 1911.*

Frederick Rodman Palmer, of Wisconsin.

Stanley Willis Wood, of Missouri.

Alexander Wilson, of Missouri.

Xavier Francis Blauvelt, of the District of Columbia.

Frank Dorwin Lackland, of the District of Columbia.

Mason Wilbur Gray, jr., of Michigan.

Joseph Andrews, of Oklahoma.

Albert Samuel Peake, of California.

Floyd D. Carlock, of Ohio.

Cushman Hartwell, of Pennsylvania.

Arthur Boettcher, at large.

Elisha Francis Riggs, of the District of Columbia.

Horace Thurber Aplington, of New York.

Henry Burnet Post, of New York.

Fred Livingood Walker, of Ohio.

Alvan Cullom Gillem, jr., at large.

Rapp Brush, of Illinois.

James Edward O'Phelan, of Minnesota.

John O'Keefe Taussig, of Missouri.

Bert Milton Atkinson, of Georgia.

Edward George McCormick, of New York.

## POSTMASTERS.

## ARKANSAS.

Ruby Jones, Dermott.

## CALIFORNIA.

Clyde F. Baldwin, Whittier.

Sheridan G. Berger, Ontario.

Oliver H. Duvall, Claremont.

George F. Hirsch, Longbeach.

Frank B. Mackinder, St. Helena.

Ada Mayes, El Monte.

James Mitchell, Dos Palos.

Samuel S. Wood, Rialto.

## COLORADO.

Harry A. Cobbett, Cedaredge.

Judson E. Sippelle, Grand Valley.

## CONNECTICUT.

Jessie S. Rose, Manchester.

## FLORIDA.

Noah Barefoot, Graceville.

Mary B. Bishop, Eustis.

Frank L. Collins, Winterhaven.

George E. Koons, Palmetto.

## GEORGIA.

Willie Mishoe, Soperton.

## ILLINOIS.

Charles L. Blandin, Blandinsville.

Henry K. Brockway, Barrington.

Ira M. White, Walnut.

## INDIANA.

Charles T. O'Haver, Lyons.

William C. Porter, Red Key.

## IOWA.

William N. Oursler, Odebolt.

## KENTUCKY.

Washington A. Huggins, Cave City.

## LOUISIANA.

M. G. Neuhauser, Slidell.

## MARYLAND.

Clarence H. Oldfield, Ellicott City.

Fred W. Wilson, Upper Marlboro.

## MINNESOTA.

Frank Hagberg, Winthrop.  
John Lohn, Fosston.  
Thomas M. Paine, Glencoe.  
Caroline E. Smith, Morton.  
W. J. Stock, Coleraine.  
Edward Wilson, Kasson.  
Edward Yanish, St. Paul.

## OKLAHOMA.

Harry Jennings, Claremore.  
Joseph M. De Lozier, Sapulpa.  
Joseph V. Martin, Lone Wolf.  
Calvin S. Ward, Roosevelt.

## PENNSYLVANIA.

Newton S. Brittain, jr., East Stroudsburg.  
Fred G. Brown, Knoxville.  
Henry M. Brownback, Norristown.  
Harry B. Heywood, Conshohocken.  
Oscar D. Schaeffer, Nazareth.  
George F. P. Wanger, Pottstown.

## UTAH.

Thomas Braby, Mount Pleasant.

## WEST VIRGINIA.

Luther S. Montgomery, Montgomery.  
Isaac I. Riley, Spencer.  
William F. Squires, Parsons.

## WISCONSIN.

Alexander Archie, Waterloo.  
John W. Bell, Chetek.  
A. B. Chandler, Beaver Dam.  
Robert Downend, Osceola.  
Herbert A. Pease, Cumberland.  
George A. Packard, Bayfield.  
Mildred Smith, Withee.  
John H. Snyder, jr., Elkhorn.  
David B. Worthington, Beloit.

## WITHDRAWALS.

*Executive nominations withdrawn February 17, 1911.*

Renaldo E. Taylor to be postmaster at Gridley, Cal.  
Joseph H. Woollen to be postmaster at Mankato, Kans.

## HOUSE OF REPRESENTATIVES.

FRIDAY, February 17, 1911.

The House met at 10 o'clock a. m.  
Prayer by the Chaplain, Rev. Henry N. Couden, D. D.  
The Journal of the proceedings of yesterday was read and approved.

## WATER FOR IRRIGATION.

Mr. REEDER. Mr. Speaker, I desire to call up the conference report on the bill (S. 6953) authorizing contracts for the disposition of waters of projects under the reclamation act, and for other purposes, and I ask unanimous consent that the statement be read in lieu of the report.

The SPEAKER. The gentleman from Kansas calls up a conference report and asks unanimous consent that the statement be read in lieu of the report. Is there objection?

Mr. UNDERWOOD. What is the conference report?

The SPEAKER. The Clerk will report the title.

The Clerk read the title of the bill (S. 6953) authorizing contracts for the disposition of waters of projects under the reclamation act, and for other purposes.

Mr. UNDERWOOD. I will ask the gentleman from Kansas what is involved in this.

Mr. REEDER. It is to authorize contracts with outside parties, either private persons or corporations, so that they, by paying their proportionate per cent of the money required for building reservoirs and ditches, can carry the water that belongs to their land through those ditches.

Mr. UNDERWOOD. In the differences between the House and Senate is there any charge on the Treasury or any disposition of the public lands?

Mr. REEDER. There is not.

Mr. TAYLOR of Colorado. Mr. Speaker, I ask the gentleman—

Mr. REEDER. I will ask the gentleman to listen to the statement first.

The SPEAKER. The matter is not yet before the House. Is there objection to reading the statement instead of the report?

There was no objection.

The Clerk read the statement of the House conferees, as follows:

## STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the House to Senate bill 6953, authorizing contracts for the disposition of waters of projects under the reclamation act, and for other purposes, submit the following written statement in explanation of the effect of the action agreed upon by the conference committee and submitted in the accompanying report, as to each of the amendments of the House, viz:

On amendments Nos. 1, 2, 3, 4, 5, and 6: Provide for carrying and impounding water, as proposed by the House, instead of disposing of water, as proposed by the Senate.

On amendments Nos. 7 and 8: Make verbal correction in the text of the bill.

On amendment No. 9: Provides that the use of reservoirs as well as the construction of reservoirs may be contracted for, as proposed by the House.

On amendments Nos. 10, 11, 12, and 13: Make verbal corrections in the text of the bill.

On amendment No. 14: Gives to the bill the title proposed by the House.

W. A. REEDER,  
RALPH D. COLE,  
W. R. SMITH,

*Managers on the part of the House.*

Mr. MANN. Mr. Speaker, I think we ought to have an explanation of this report.

Mr. REEDER. As it passed the Senate this bill provided for the disposition of water. The House committee held that Congress does not have the right to provide for the disposition of water; that water is appurtenant to the land, and that whoever by a proper course secures the water for his land makes the water appurtenant to that land. Therefore we changed the bill so as to provide for impounding and carrying the water, rather than for disposing of it. The Senate conferees agreed with us on every proposition. There were some changes made, however, in the phraseology and punctuation, and those are all the changes that were made in the bill as it was amended by the House.

Mr. MANN. What were the differences between the House and the Senate?

Mr. REEDER. The Senate proposed to dispose of the water. The House simply provided that when a person had secured the water for his land by the ordinary process to impound and carry the water, and that we do not have the power to dispose of the water.

Mr. MANN. This is water in a reclamation project, is it not?

Mr. REEDER. No; it is excess water in a reclamation project.

Mr. MANN. Well, it is water in a reclamation project.

Mr. REEDER. No; it is not; because if it were in a reclamation project it would be necessary for that project; but it is water that is in a stream where, after all the water necessary is used in the reclamation project, a surplus remains. In many cases there is only one good place to impound the water, and by making the dam higher and permitting these people to pay for the extra expense and making the ditch a little larger they can carry water that does not belong to the project to land that the water does belong to.

Mr. MANN. This proposes to have the Government and private parties enter into a partnership, does it not?

Mr. REEDER. Yes, sir.

Mr. MANN. And under that the Government pays part of the expense of the dam and private parties pay the rest?

Mr. REEDER. Yes; that is partly what it is intended for; but the dam is to remain entirely under Government control.

Mr. MANN. We can all imagine how well the Government is likely to have its interests protected.

Mr. REEDER. The bill provides that no water can be carried or disposed of until sufficient water is provided or reserved for the whole of the irrigation project. After that, if there is surplus water and no good place to store it, then by paying the expense necessary to make the reservoir large enough to store it and to make the ditches large enough to carry it, the outside parties can carry their water through the ditches to their own ditches.

Mr. MANN. I remember the bill as it passed the Senate, and I remember the bill as it passed the House. Just what changes have been made by the conferees in the bill as it passed the House?

Mr. REEDER. Not any.

Mr. MANN. I have read enough to see that there have been some changes.



Mr. REEDER. There have been no changes except in phraseology. The amendments are not intended to change the purpose of the bill.

Mr. MANN. What is the occasion of changing the phraseology if it does not mean anything?

Mr. REEDER. In one case there was placed an apostrophe, where if it had been placed lower down it would have been a comma, and we put it lower down. We struck out one section and inserted another section, and that same section was inserted again by the conferees with a few verbal changes. In the second amendment we struck out, in line 7, the words "to be fixed."

Mr. TAYLOR of Colorado. Will the gentleman yield?

Mr. REEDER. I would be glad to.

Mr. TAYLOR of Colorado. When the Government of the United States, in locating these reclamation projects, determines the amount of land there is to irrigate and the size of the reservoir and the size of the canal necessary to irrigate it, what is the purpose of their having excess capacity, and why should they do so?

Mr. REEDER. Because there are other lands, in small tracts, or perhaps some taken under the Carey Act, that will find plenty of water after the Government has withdrawn what it wants for the purpose of irrigating the lands under the project, but the Government has taken the only practical place to store the water. The result is that after the Government has reserved all that is necessary for their project, if private individuals wish, they can put up the money (the Government still retaining control of the dam) to enlarge the reservoir or widen the ditches, and then they can carry the surplus water which belongs to their land. Without this these lands could not be irrigated at all in some places.

Mr. TAYLOR of Colorado. Why should the Government of the United States have any right to appropriate more water than they need any more than should an individual?

Mr. REEDER. We claimed that the Government did not have any such right, and hence we provided that anyone else that claimed the water should have a right to use it under conditions provided in this bill.

Mr. TAYLOR of Colorado. Is not there danger in this proceeding of having the Government of the United States put to the expense of building irrigation work and appropriating, we may say, water for the purpose of allowing a large number of private individuals to get water at the Government expense very cheaply?

Mr. REEDER. We have provided in our amendment that the Government shall not impound or carry water for others unless there is an excess over what is needed on the lands under the project. Then the Government, having the reservoir, when others furnish the money, may increase the size of the reservoir and increase the carrying capacity of the ditches and permit those who furnish the necessary funds to use the surplus water on their own land.

Mr. TAYLOR of Colorado. Does it not strike those on the committee who have had practical experience in irrigation operations of the West that this is rather an adroit entering wedge for the purpose of the Government controlling our waters in that country?

Mr. REEDER. I am very anxious not to do anything that will invalidate or deprive the people of the full benefits of the national irrigation law. I take great pride in this law. I think it is one of the greatest movements inaugurated by Congress since I have been a Member. By means of this law homes are being made for at least 30 persons each day out of desert lands, and these citizens are placed thereby under conditions which are favorable to the development of the highest type of citizenship.

Mr. TAYLOR of Colorado. Then why not let it alone?

Mr. REEDER. I have consulted practically all of the interested people of the West to know if this could in any way disturb the working of the irrigation law, so that I not only have my own judgment but the judgment of most of the Members interested in these matters.

Mr. TAYLOR of Colorado. Has the gentleman consulted anybody from Colorado, the greatest irrigation State in the West?

Mr. REEDER. No; I do not know that I have.

Mr. TAYLOR of Colorado. It seems to me that when the gentleman talks of irrigation lands he ought to remember the Centennial State.

Mr. MANN. Will the gentleman yield further?

Mr. REEDER. Yes, sir.

Mr. MANN. It seems to me this is so important a matter that we ought to have a full understanding of it.

Mr. REEDER. It is important.

Mr. MANN. As I understand now, under the reclamation project we construct reclamation systems for the furnishing of

water directly in the first place through the Government; that this proposition is that the Government shall construct large reservoirs or dams for the purpose of impounding water which the Government has no use for in its reclamation project.

Mr. REEDER. Well, the gentleman is mistaken. It is not a provision of that kind. This is a provision—

Mr. MANN. I want to know whether I am mistaken.

Mr. REEDER. I am saying to the gentleman that my judgment is he is mistaken. The proposition is that the Government is to impound water or arrange to impound water sufficient for the lands under the project. Now, if there still remains a surplus of water, and other persons claim that water for their lands, then they must provide some method of getting that water upon their lands, and by paying the necessary expense the reservoir can be increased in size by building the dam higher and the main ditches enlarged.

Mr. MANN. Is not the very purpose of that to get more water impounded than the Government has any use for in its reclamation project?

Mr. REEDER. It is.

Mr. MANN. Is not that a very dangerous proposition? Here we have reclamation projects started. Now, the proposition is to go beyond that, and have the Government construct reclamation projects, not for the purpose of supplying water to the project, but for the purpose of supplying water to somebody else under contracts which may be made. What supervision is there over the contract?

Mr. REEDER. The Secretary of the Interior is empowered to make such contracts as he deems will make it safe for the owners of the lands to be irrigated under the project that they will have their water not only retained but impounded when they are ready to put water on their land.

Mr. MANN. Suppose there is a shortage of water in the end—who loses the water, the private parties, or the parties on the Government project?

Mr. REEDER. There is a question in my mind should such a condition arise. There is no question unless it should occur in this way, that certain units of the project were first supplied with water, then there is no question but what they would have the water first; but if the money in the irrigation fund should be short, and private individuals come in and establish a right to water and use it on their lands, and then another unit of the Government project is taken up, I am inclined to think that the next unit under the irrigation project would suffer the loss, because ownership of water is regulated by beneficial use, and if a certain amount was claimed for this project and later on it had been used by other parties, I fear that that second part of the project would suffer the shortage of water.

Mr. MANN. Let me ask the gentleman a question. Here is a project or a reservoir to supply so much water. That must be in the nature of an estimate at the best. You require so much water to furnish irrigation to the people on the land under the Government project, and propose to supply any surplus water under a contract with other people. You do not make any limitation as to the character of the contract which remains?

Mr. REEDER. Yes; we say that this contract shall reserve to the irrigation project a sufficient supply of water to water the project, and there is not as much guesswork about that as the gentleman may think. The amount of water required for the land, as well as the supply in the streams, are pretty nearly known now.

Mr. MANN. Well, there is more or less guesswork about it.

Mr. REEDER. A good deal less guesswork than more.

Mr. MANN. We have not tried irrigation projects long enough to know that. If there is a shortage of water, that is the fault of private consumers only, under the gentleman's statement, but that will depend on the contract.

Mr. REEDER. I think it also depends upon the time of the commencement of the use of the water by different users.

Mr. MANN. Does the gentleman mean to say if the Government makes a contract authorizing the use of water, that the actual use of the water depends upon the time of making the contract?

Mr. REEDER. The ownership of the water depends upon the time of commencing the use of it and their continuance of beneficial use of the same.

Mr. MANN. That is clearly not the case.

Mr. REEDER. That clearly is the case.

Mr. MANN. Does the gentleman mean to say that if you make a contract with A to furnish him so much, and then with B to furnish him so much water in case there is a shortage, the contract with B fails and A can get the water?

Mr. REEDER. Certainly.

Mr. MANN. That will depend upon the contract.

Mr. REEDER. It does not depend on the contract at all. Mr. RUCKER of Colorado. A has a priority of right.

Mr. REEDER. That is priority of right.

Mr. MANN. It depends upon the law or the contract, and there is no law governing it.

Mr. REEDER. Oh, there is a law.

Mr. MANN. What is it?

Mr. REEDER. If we contract with A to furnish water five years and he fails to use it, and at the end of four years we contract with B, and he commences and continues to use the water, A loses his right and B thus secures the first right to this water.

Mr. MANN. That depends upon the law upon the subject.

Mr. REEDER. It does not; it depends upon who makes continuous beneficial use of the water.

Mr. MANN. It absolutely must depend upon the law on the subject. While that may be governed by some State law the State law will not apply in this case where the Government provides for the making of a contract.

Mr. MONDELL. Will the gentleman yield to me?

Mr. REEDER. I will yield to the gentleman from Wyoming.

Mr. MONDELL. Mr. Speaker, I want to call the attention of the gentleman from Illinois and the House to the fact that, in the first place, this conference report in no wise changes the bill as it passed the House except in matters of phraseology. No change in the purpose or intent of the bill is made.

Mr. MANN. The gentleman from Kansas a moment ago stated that the conference report in nowise changed the language of the bill as it passed the House except in phraseology or punctuation. Can the gentleman inform us in what other way it can possibly be changed except in phraseology and punctuation?

Mr. REEDER. I would like to answer that.

Mr. MONDELL. If the gentleman will allow me, the phraseology was changed very slightly to make the meaning a little clearer and does not in anywise affect the meaning and intent of the act. Then it was discovered that by inadvertence there was an error in punctuation, and the only changes were those of punctuation and such as were made to make the bill entirely clear. The conferees also struck from the bill some language that was mere surplusage and left in the bill through inadvertence.

Mr. MANN. That part I remember, the bill duplicated language, and, if the gentleman will yield, there was a wide difference between the Senate proposition and the House proposition. Now, it comes back with changes in language, and we are told that it is not intended to change the meaning. Why not answer that by telling what the difference is?

Mr. MONDELL. Well, I will say to the gentleman that it makes no essential change in the bill.

Mr. MANN. What is the purpose of doing it if it does nothing?

Mr. MONDELL. Well, for instance, in the matter of punctuation, the House bill at two points was erroneously punctuated.

Then, there were one or two places in the second section of the bill where a very slight change was made to make the language of the bill clearer, and I want to say to the gentleman the changes which had been proposed by the Senate at one time were none of them inserted in the conference report. And the bill comes back to the House substantially as it left the House.

Now, answering the gentleman's question as to what the bill does and how it can affect water rights, let me assure the gentleman it can not; that these contracts which are provided for can not affect the water right of any entryman under a reclamation project or under any unit of a reclamation project, for this reason, that when the reclamation project is inaugurated or initiated the water rights for the entire project and all units of it are filed, and the right dates from the time when the water-right application is made, provided due diligence is used in building works; so that the first rights are those under the project, and nothing can be done, nothing is contemplated in this bill, nothing that we could do could take from the project the water necessary for the irrigation of all of the lands under the project.

Mr. MANN. Does the gentleman mean we could not do it?

Mr. MONDELL. No; we could not do it, because the water rights are obtained from the State, and the water right dates from the date of application, work proceeding with reasonable diligence. So, as a matter of fact, we could not, if we were disposed to do it, which, of course, the House is not, take a water right from any land included in a project. But the first section of the bill provides that if a surplus has been provided by impounding reservoirs, as in the case of the North Platte, for instance, above the amount which will be needed for

the irrigation of all lands under the entire project, the Secretary may make contracts for the use of the surplus of the impounded water. That can in nowise or under any circumstances affect any entryman on any project, but it is a contract which is pure velvet, if I may use that sporting expression, to the Reclamation Service, in that it brings to the service an increased income without any further outlay.

Mr. MANN. Is the gentleman absolutely correct about that? The gentleman from Kansas [Mr. REEDER] stated that it contemplated constructing dams higher and at greater expense.

Mr. MONDELL. I am speaking of the first section of the bill now, and I will come to the second section later. The first section of the bill relates primarily to those works which have been constructed. As I have said, it is an income to the service which otherwise the service could not acquire, and without this law, in the case of the North Platte Dam, the additional impounded water not needed for the irrigation of the lands under the project would simply be turned into the stream and the service would receive no benefit from it. That is the first section.

Now, the second section contemplates two essentially different operations: First, that the settlers on a unit of a reclamation project who are anxious to have immediate construction and do not care to wait for the time when the service in the expenditure of its funds can build their canals may make contracts with the Reclamation Service under which they build their own works on the unit, and the contract with the service in fixing their water-right charges gives them credit for the work they have done at their own expense, and which otherwise would have to be done by the Government. To that extent it relieves the Government from expenditure.

Mr. MANN. Right there, if this contemplates the construction of a more expensive dam—

Mr. MONDELL. I have not reached that point. I am speaking now of the first class of works, the more important class of works contemplated, giving the settlers upon a unit the right to build all or a part of the works of the unit themselves, thus saving expenditure by the Government and securing credit on their water rights for the amount of their expenditure. In other words, the water-right charge would be as much less as the cost of the work they constructed bore to the entire cost.

Mr. MANN. And do I understand the gentleman that this proposes to permit the water-right users under the reclamation project itself to construct part of the work which otherwise the Government would construct?

Mr. MONDELL. That is it. That is the more important feature of the second section.

Another feature of the second section which is also important is this, and it is best illustrated perhaps by the situation at Jackson's Lake: The Reclamation Service is irrigating a large amount of land on the Snake River in Idaho, and has withdrawn for irrigation all the public lands on the Snake River that they can reach with their works, so that there is now included in the Reclamation Service in that locality quite a large area that the Government can irrigate. It so happens that by impounding the waters of the Snake River at Jackson's Lake in Wyoming an amount of water can be impounded in excess of what is needed for all of the land under all of the units of the Government projects, and this act gives the Secretary of the Interior authority to allow private parties having land to irrigate down on the river to join in defraying the cost of constructing the dam at Jackson's Lake. The additional amount contributed, of course, would make it possible to raise the dam higher and impound more water, and that would be beneficial to the Government and beneficial to the private parties without costing the Government a penny, because the additional cost of building the dam higher than the Government might find it necessary to build it would be borne by the people who are to use the additional water for the irrigation of the lands under their project.

Therefore the bill does not contemplate the expenditure of additional money by the Government, but it does contemplate a saving to the Government—first, in the first section, by receiving sums for waters which otherwise would go to waste, so far as the Government is concerned; second, by being relieved from the necessity of constructing the laterals and distributing works where the settlers want to construct them themselves, or are willing to do so; and, third, by receiving contributions from private individuals in connection with the construction of dams or ditches, raising them higher or larger in capacity than it would be necessary to do if only Government lands were to be irrigated.

Mr. MANN. Does this bill require that these contributions shall be in cash, or is it proposed that the Government out of



the reclamation funds shall advance this money and at some time get it back?

Mr. MONDELL. No; it does not.

Mr. MANN. Is there anything in the bill to prohibit that?

Mr. MONDELL. Unquestionably.

Mr. REEDER. There is nothing in the bill even to suggest it. Nothing of that kind was contemplated.

Mr. MANN. The bill authorizes the Secretary of the Interior to make contracts, and it makes no limitation with respect to them.

Mr. REEDER. It gives him no money with which to execute contracts. I would like to make a brief statement on this subject, if my friend from Wyoming [Mr. MONDELL] is through. It will take but a moment.

Mr. MONDELL. So far as I know, no one has ever imagined such a thing, and in the case that I am using as an illustration I understand the parties who are irrigating lands down on the Snake River have been ready for the last year to put up the money necessary to build the dam higher than the Government would otherwise build it.

Mr. MANN. The gentleman says that nothing is contemplated about it. When the original reclamation act was passed there was nothing of this sort imagined by anybody, and yet the first thing we have is a proposition that the Government shall enter upon the work and build the reservoirs and dams for the purpose of supplying private parties with water.

Mr. REEDER. If my friend from Wyoming [Mr. MONDELL] has finished his statement, I would like to get a moment for a word of explanation.

Mr. MONDELL. Sometimes exaggerated statements are made in matters of this kind. In this case the Government is saved expenditure, rather than subjected to an additional expenditure.

Mr. REEDER. I would like to make a further remark or two in regard to this bill. First, I wish to state that but for the purpose of providing that the Government should not undertake to dispose of the water we should have made no amendments to this bill. The next proposition is this—

Mr. TAYLOR of Colorado. Mr. Speaker, I want to ask the gentleman from Kansas [Mr. REEDER] a question.

Mr. REEDER. All right.

Mr. TAYLOR of Colorado. In the last sentence of section 2 why is this language used?

*Provided, That nothing contained in this act shall be held or construed as enlarging or attempting to enlarge the right of the United States under existing laws to control the waters of any stream in any State.*

Why should you put in anything that even indirectly assumes to give the United States control over our streams?

Mr. REEDER. We desired to make it clear that the Government has no right to running water.

Mr. TAYLOR of Colorado. Why did you not say so? Why did you not provide, then, that the United States shall not be construed to have any authority?

Mr. REEDER. That is what we do provide.

Mr. TAYLOR of Colorado. You say "shall not be construed to have any enlarged authority." Why do you tacitly recognize that it has any authority at all?

Mr. REEDER. We amended this bill in such a way as to allay and set aside any suspicion that anyone might entertain that the Government had the right to the water.

Mr. TAYLOR of Colorado. If you intended to do that, I must say that the language hit upon was not very happy. I do not agree with you.

Mr. REEDER. That may have been an unfortunate use of language. I believe there is danger that these men who obtain surplus water under this bill may finally obtain the sole right to water that should go to landowners under the project. Now, I answered my conscience in this matter in this way: That if all the water in the stream is used near its source to produce crops, the sooner this can be consummated the better, and each comer will likely get water in the order of his putting it to beneficial use. We can not in any way increase the amount of water, and the well-established principle in water ownership for irrigation of "first come, first served" is probably best after all, whoever gets left.

Mr. COOPER of Wisconsin. Mr. Speaker, I should like to ask the gentleman from Kansas a question. Do not the first four lines on page 4 permit the private association or corporation to charge what they think is reasonable for the carriage and delivery of the water? The private corporations fix the rate, do they not?

Mr. REEDER. No; we provide in this bill that they shall not charge anything in excess of the cost of the storage and carrying to them; but, nevertheless, when they sell their land, they will get their profit. Everybody knows they will put in

as much profit as they can get into the price they charge for the land they own.

Mr. COOPER of Wisconsin. They get this water from the Government, do they not?

Mr. REEDER. No; they do not. That is what we amended the bill to provide against. They get the Government to permit them to pay for the storage of it, and to pay the cost of the increase in the size of the ditches through which the Government carries their water.

Mr. COOPER of Wisconsin. The first four lines further say that they shall not charge in excess of the charge paid by them to the United States, except to such an extent as may be reasonably necessary to cover the carriage and delivery of said waters. The question as to what is reasonable is left to them to decide.

Mr. REEDER. In a way that is true.

Mr. COOPER of Wisconsin. Suppose they make an excess charge over and above that. Who can determine that question?

Mr. REEDER. It is not worth while to try to determine it, for this reason: When they commence to put in their lateral ditches, they are at some expense in addition to what they pay to the Government, and they will make a charge for that. Even if they should charge less than the cost for that, they are sure to make it up in the price they charge for their land anyway, and there is no way to prevent that. They will charge all that the settler will pay for the land. If they do not charge it for carrying water, they will charge it on the land.

Mr. SMITH of Texas. I think the users of the water can hold it down to a reasonable figure.

Mr. COOPER of Wisconsin. They can not if the corporation have a monopoly of the water.

Mr. REEDER. The gentleman does not understand. They have no monopoly of the water, for the reason that the water can only be made appurtenant to the land. They have a monopoly of carrying the water, unless the landowner provide another plan to carry it.

Mr. COOPER of Wisconsin. Where the water in an ordinary irrigation project is let on to land, is there not some officer somewhere or some authority that can fix the rate?

Mr. REEDER. The law fixes the rate, because it must be the cost of constructing the necessary works for impounding and delivering the water without interest. In these private projects there is no way to fix the rate. They own the land, and if they get the water at all, it is appurtenant to the land.

Mr. COOPER of Wisconsin. They would not get the water, except for this provision.

Mr. REEDER. They can get the water, but they have got to provide some way to utilize it. Now, we are simply providing for the best method for them to do this, because we have monopolized the place where the water can be cheaply impounded. That is all there is to the bill. They will charge what they can get for their land, just as the gentleman and myself would do if we owned it.

Mr. KOPP. Who determines whether they are charging what is reasonably necessary to cover the cost of carriage and delivery?

Mr. COOPER of Wisconsin. That is the exact question.

Mr. REEDER. That is determined by the man who buys the land.

Mr. KOPP. Has he any redress if he thinks they are charging him more than it is worth?

Mr. REEDER. No more redress than I would have if I tried to buy a farm from the gentleman, and I thought it was worth \$75 an acre and the gentleman thought it was worth \$100 an acre. The gentleman would own the farm, and there would be no power on earth that could compel him to sell it to me for \$75 an acre if he chose to hold it at \$100 an acre.

Mr. KOPP. Then, is not this perfect folly, if a man has no redress when they do that which the law prohibits?

Mr. REEDER. As long as they own the land to which the water is appurtenant, that can not be remedied any more than we can remedy the price of land which is held by any private person.

Mr. COOPER of Wisconsin. In the matter of railroad rates, where there is a monopoly of transportation, if the rate charged by the railroad is not reasonable, there is a commission authorized to fix rates, and the man can go before the commission or into court if necessary. Now, ought there not to be some way in which the question of the reasonableness of the charge for the water can be determined if a man wants to use it? As I understand it, this private corporation has the right to fix the rate.

Mr. REEDER. But they can not get the water unless they own the land to which the water is appurtenant.

Mr. COOPER of Wisconsin. This comes from a contract with the Secretary of the Interior, does it not?

Mr. REEDER. They could not get the water unless they own the lands.

Mr. COOPER of Wisconsin. Certainly not; but after they sold the lands it is in the hands of the private owner. This company can raise the rate at any time it pleases.

Mr. REEDER. Oh, no.

Mr. COOPER of Wisconsin. It is left to their discretion, and there is no redress for the landowner.

Mr. REEDER. No; there is no contract made for the land under irrigation unless it carries with it a delivery of the water. If the contract is made, that fixes the price. You might as well say that if I bought land of you at \$100 an acre and you gave me a deed of it, later on you could charge me more per acre. When they sell the lands they give a deed, and the deeds call not only for the land, but for the water at certain rates.

Mr. KOPP. This provides that—

No irrigation system, district, association, corporation, or individual so contracting shall make any charge for the storage or delivery of such water in excess of the charge paid to the United States, except to such extent as may be reasonably necessary to cover cost of carriage and delivery of such water through their work.

There is an absolute prohibition. Does the gentleman mean to say that when we insert an absolute prohibition and then attach no penalty to it, it is prohibited by law?

Mr. REEDER. They can not charge any more than the Government charges them for carrying the water.

Mr. KOPP. But suppose they do, what is the result?

Mr. REEDER. They can not collect it.

Mr. KOPP. Why?

Mr. REEDER. For the reason that the Government would not be justified, or the Secretary of the Interior would not permit the carrying of water under those conditions.

Mr. KOPP. But who determines whether they have charged an excess?

Mr. COOPER of Wisconsin. Who determines whether it is a reasonable price or not?

Mr. REEDER. If not determined there it would be determined by the court. But there is nothing in this proposition of the gentleman from Wisconsin. Suppose they were charged 10 cents or a dollar a miner's inch more than it cost; they are going to charge for the land and carrying the water in the private ditches enough to give them a good profit.

Mr. KOPP. That is begging the question. Suppose I have the land and I think I have been charged too much.

Mr. REEDER. But you make your contract when you buy the land. If you have made a contract for the land and paid \$25 too much, you have lost your \$25. You make your contract at the time and that includes the carrying of the water to the land.

Mr. KOPP. No matter what rate they charge, I either make the contract or I do not buy the land.

Mr. REEDER. That is the situation, and always has been. If a man owns property, he sets the price; you buy or let it alone.

In this case the owner must sell down to 160 acres or he can get no water at all for more than one 160-acre tract, and without the water the land is worthless. This makes the owner hunt a purchaser.

The SPEAKER. The question is on agreeing to the conference report.

The question was taken, and the conference report was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 10559. An act to designate St. Andrews, Fla., as a support of entry;

S. 10638. An act to authorize the Secretary of War to sell certain lands owned by the United States and situated on Dauphin Island, in Mobile County, Ala.;

S. 10756. An act granting public lands to the town of Omak, State of Washington, for public-park purposes;

S. 10591. An act to grant certain lands to the city of Trinidad, Colo.; and

S. 9113. An act fixing the salary of the collector of customs, district of Montana and Idaho.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 28406) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for

fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1912, and further insists upon its amendments numbered 48, 76, and 82, disagreed to by the House of Representatives, asked a further conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. CLAPP, Mr. McCUMBER, and Mr. STONE as the conferees on the part of the Senate.

#### SENATE BILLS REFERRED.

Under clause 2, Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 10559. An act to designate St. Andrews, Fla., as a support of entry; to the Committee on Ways and Means.

S. 10638. An act to authorize the Secretary of War to sell certain lands owned by the United States and situated on Dauphin Island, in Mobile County, Ala.; to the Committee on Military Affairs.

S. 10756. An act granting public lands to the town of Omak, State of Washington, for public-park purposes; to the Committee on the Public Lands.

S. 10591. An act to grant certain lands to the city of Trinidad, Colo.; to the Committee on the Public Lands.

S. 9113. An act fixing the salary of the collector of customs for the customs district of Montana and Idaho; to the Committee on Ways and Means.

#### ENROLLED BILLS SIGNED.

Mr. WILSON of Illinois, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

H. R. 11798. An act to enable any State to cooperate with any other State or States, or with the United States, for the protection of the watersheds of navigable streams, and to appoint a commission for the acquisition of lands for the purpose of conserving the navigability of navigable rivers;

H. R. 24123. An act for the relief of the legal representatives of William M. Wightman, deceased;

H. R. 31056. An act to ratify a certain lease with the Seneca Nation of Indians;

H. R. 27837. An act to amend the provisions of the act of March 3, 1885, limiting the compensation of storekeepers, gaugers, and storekeeper-gaugers in certain cases to \$2 a day, and for other purposes; and

H. R. 31662. An act granting five years' extension of time to Charles H. Cornell, his assigns, assignees, successors, and grantees, in which to construct a dam across the Niobrara River on the Fort Niobrara Military Reservation, and to construct electric light and power wires and telephone line and trolley or electric railway, with telegraph and telephone lines, across said reservation.

#### MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

A message from the President of the United States, by Mr. Latta, one of his secretaries, announced that the President had approved and signed bills and a joint resolution of the following titles:

On January 27, 1911:

H. R. 28434. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors; and

H. R. 28435. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

On February 2, 1911:

H. R. 25235. An act to provide for the sale of lands acquired under the provisions of the reclamation act and which are not needed for the purposes of that act.

On February 3, 1911:

H. R. 15665. An act providing for the appointment of deputy clerks to the United States circuit court of appeals;

H. R. 15660. An act providing for second homestead and desert-land entries; and

H. R. 20109. An act to quiet title to certain land in Dona Ana County, N. Mex.

On February 6, 1911:

H. R. 20366. An act to transfer St. Joseph Bay, of the Pensacola collection district, in the State of Florida, to the Apalachicola collection district.

On February 7, 1911:

H. R. 21220. An act transferring Maries County to the eastern division of the eastern judicial district of Missouri.

On February 8, 1911:

H. R. 710. An act for the relief of Cornelius Cahill; and  
H. R. 17729. An act for the relief of James F. De Beau.



On February 13, 1911:

H. R. 15342. An act to reimburse Charles K. Darling for moneys necessarily expended by him as clerk of the court of appeals for the first circuit.

On February 15, 1911:

H. R. 18857. An act for the relief of Laura A. Wagner;

H. R. 21646. An act for the relief of William Doherty;

H. R. 23361. An act authorizing the Hot Springs Lodge, No. 62, Ancient Free and Accepted Masons, under the jurisdiction of the Grand Lodge of Arkansas, to occupy and construct buildings for the use of the organization on lots Nos. 1 and 2, in block No. 114, in the city of Hot Springs, Ark.;

H. R. 29715. An act to extend the time for commencing and completing bridges and approaches thereto across the Waccamaw River, S. C.;

H. R. 30149. An act to transfer the military reservation known as Fort Trumbull, situated at New London, Conn., from the War Department to the Treasury Department, for the use of the Revenue-Cutter Service;

H. R. 30793. An act to authorize the Fargo & Moorhead Street Railway Co. to construct a bridge across the Red River of the North;

H. R. 30890. An act to authorize the Chicago Great Western Railroad Co., a corporation, to construct a bridge across the Mississippi River at St. Paul, Minn.;

H. R. 30899. An act to authorize the Great Western Land Co. of Missouri to construct a bridge across Black River;

H. R. 31171. An act to amend an act entitled "An act to authorize the construction of a bridge across the Monongahela River, in the State of Pennsylvania, by the Liberty Bridge Co." approved March 2, 1907;

H. R. 31648. An act to authorize the county of Hamilton, in the State of Tennessee, to construct a bridge across the Tennessee River at Chattanooga, Tenn.;

H. R. 31649. An act to authorize the county of Hamilton, in the State of Tennessee, to construct a bridge across the Tennessee River at Chattanooga, Tenn.;

H. R. 31656. An act extending the time for commencing and completing the bridge authorized by an act approved April 23, 1906, entitled "An act to authorize the Fayette Bridge Co. to construct a bridge over the Monongahela River, Pa., from a point in the borough of Brownsville, Fayette County, to a point in the borough of West Brownsville, Washington County;"

H. R. 31859. An act to authorize the Chucawalla Development Co. to build a dam across the Colorado River at or near the mouth of Pyramid Canyon, Ariz.; also a diversion intake dam at or near Black Point, Ariz., and Blythe, Cal.;

H. R. 31927. An act authorizing the town of Blackberry to construct a bridge across the Mississippi River in Itasca County, Minn.;

H. R. 32004. An act providing for the quadrennial election of members of the Philippine Assembly and Resident Commissioners to the United States, and for other purposes; and

H. J. Res. 213. Joint resolution authorizing the President to invite foreign countries to participate in the Panama-Pacific International Exposition in 1915 at San Francisco, Cal.

On February 16, 1911:

H. R. 23314. An act to authorize the employment of letter carriers at certain post offices;

H. R. 28214. An act providing for the levy of taxes by the taxing officers of the Territory of Arizona, and for other purposes;

H. R. 31661. An act to authorize the Secretary of Commerce and Labor to transfer the lighthouse tender *Wistaria* to the Secretary of the Treasury;

H. R. 21882. An act for the relief of Horace D. Bennett;

H. R. 18342. An act for the relief of E. C. Young;

H. R. 19505. An act for the relief of Eugene Martin;

H. R. 19747. An act for the relief of William C. Rich;

H. R. 23827. An act extending the provisions of section 4 of the act of August 18, 1894, and acts amendatory thereto, to the Fort Bridger abandoned military reservation, in Wyoming;

H. R. 30727. An act providing for the sale of certain lands to the city of Buffalo, Wyo.;

H. R. 32222. An act authorizing homestead entries on certain lands formerly a part of the Red Lake Indian Reservation, in the State of Minnesota;

H. R. 26529. An act for the relief of Phoebe Clark;

H. R. 30135. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

H. R. 30886. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

H. R. 31161. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors; and

H. R. 31172. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors.

#### SENATE CONCURRENT RESOLUTION REFERRED.

Under clause 2, Rule XXIV, the following concurrent resolution was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

#### Senate concurrent resolution 7.

*Resolved by the Senate (the House of Representatives concurring), That there be printed and bound, in the form of eulogies, including illustrations, 7,000 copies of the proceedings on the occasion of the dedication of the Stephenson Grand Army memorial in Washington, July 3, 1909, of which 1,500 shall be for the use of the Senate, 3,500 for the use of the House of Representatives, and 2,000 to be delivered to the Stephenson Grand Army memorial committee—to the Committee on Printing.*

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed without amendment bills of the following titles:

H. R. 26685. An act to authorize E. J. Bomer and S. B. Wilson to construct and operate an electric railway over the National Cemetery Road at Vicksburg, Miss.; and

H. R. 26018. An act for the relief of James Donovan.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 26150) to authorize the cities of Boston and Cambridge, Mass., to construct drawless bridge across the Charles River, between the cities of Cambridge and Boston, in the State of Massachusetts.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 6953) authorizing contracts for the disposition of waters of projects under the reclamation act, and for other purposes.

The message also announced that the Senate had passed the following resolution:

#### Senate concurrent resolution 7.

*Resolved by the Senate (the House of Representatives concurring), That there be printed and bound, in the form of eulogies, including illustrations, 7,000 copies of the proceedings on the occasion of the dedication of the Stephenson Grand Army Memorial, in Washington, July 3, 1909, of which 1,500 shall be for the use of the Senate, 3,500 for the use of the House of Representatives, and 2,000 to be delivered to the Stephenson Grand Army memorial committee.*

#### INDIAN APPROPRIATION BILL.

Mr. BURKE of South Dakota. Mr. Speaker, I call up the conference report on the Indian appropriation bill.

The SPEAKER. The Clerk will read the title of the bill.

The Clerk read as follows:

A bill (H. R. 28406) making appropriations for the current and contingent expenses for the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1912.

Mr. BURKE of South Dakota. Mr. Speaker, I ask unanimous consent that the statement may be read in lieu of the report.

Mr. MANN. Reserving the right to object, I would like to ask the gentleman if reading the report would not be more intelligent than the statement, in that the report quotes the language proposed to be inserted, and it is shorter than the statement.

Mr. BURKE of South Dakota. It is shorter than the statement, and it may be that the suggestion of the gentleman from Illinois is correct. I am not particular about it.

Mr. MANN. I am not particular, either; I only called the gentleman's attention to it. I will not object to the request of the gentleman from South Dakota.

The SPEAKER. Is there objection to the request of the gentleman from South Dakota that the statement be read in lieu of the report?

Mr. FITZGERALD. Mr. Speaker, reserving the right to object, I desire to inquire of the gentleman whether there is any new matter that would be subject to a point of order.

Mr. BURKE of South Dakota. I think not; we have endeavored to avoid legislation beyond the power of the conferees.

The SPEAKER. The Chair hears no objection. The Clerk will read the statement. The Chair desires to call the at-

tention of the House to the fact that on pages 2699 and 2700 of the RECORD, a portion of this statement, there is quite an extensive table.

Mr. BURKE of South Dakota. Mr. Speaker, I will ask unanimous consent that the table be omitted in the reading of the statement.

Mr. SPEAKER. Is there objection?

There is no objection.

The SPEAKER. The Clerk will read the statement.

The Clerk read the statement of the conferees.

[For statement see CONGRESSIONAL RECORD of February 16, 1911, page 2697.]

Mr. BURKE of South Dakota. Mr. Speaker, I desire to make a correction in the statement which has just been read. On page 2792, in the right-hand column, after the paragraph, occurs the following:

The items on which the conferees were unable to agree are as follows:

I wish to insert there the words "No. 48."

Then, before the second paragraph from the end, which begins—

That the Commissioner of the General Land Office be, and he is hereby, etc.—

I wish to insert the words "No. 76." Those figures are omitted from the report, as printed.

The SPEAKER. Without objection, the statement will be corrected in accordance with the statement of the gentleman.

There was no objection.

Mr. TAYLOR of Colorado. Mr. Speaker, will the gentleman yield?

Mr. BURKE of South Dakota. I yield to the gentleman.

Mr. TAYLOR of Colorado. Mr. Speaker, I desire to ask a question. I don't know whether it is proper to come here or not, but on page 48 of this bill I call attention to the item 76. Was that put in in the Senate as a Senate amendment or in conference?

Mr. BURKE of South Dakota. That item is a Senate amendment, to which the House conferees have not agreed, and we have reported a disagreement.

Mr. TAYLOR of Colorado. On that item?

Mr. BURKE of South Dakota. On that item.

Mr. TAYLOR of Colorado. The House conferees have not as yet agreed to that?

Mr. BURKE of South Dakota. No; we have not; and we may discuss it a little later when we come to the items in disagreement.

Mr. COX of Indiana. Mr. Speaker, will the gentleman yield for a question?

Mr. BURKE of South Dakota. Certainly.

Mr. COX of Indiana. Mr. Speaker, I want to call the attention of the chairman of the committee to amendment No. 48 of the bill on page 29, a Senate amendment. I have not had an opportunity of reading it except as I have observed it read in the report. It strikes me as rather a peculiar provision. Is it an attempt to make or constitute a court or quasi court at some Indian agency out there to try controversies between some man who may have squatted around on some reservation as a trader and the Indians?

Mr. BURKE of South Dakota. In reply to the inquiry of the gentleman from Indiana, I will say that the amendment to which he has reference is a Senate amendment, to which the House conferees have not agreed and on which they have reported a disagreement. At the proper time I shall discuss the reasons for the action of the House conferees in refusing to agree to the Senate amendment.

Mr. COX of Indiana. Before the gentleman moves—

Mr. BURKE of South Dakota. Oh, certainly.

Mr. COX of Indiana. Very well. I desire to hear an explanation of it, as to what the effect of it will be in the event that the conferees may eventually agree to the Senate amendment. It strikes me as being very peculiar.

Mr. STAFFORD. Will the gentleman yield?

Mr. BURKE of South Dakota. Yes.

Mr. STAFFORD. Mr. Speaker, I wish to direct the gentleman's attention to amendment No. 88, which relates to the dead and down timber on the Menominee Indian Reservation. I have glanced over it hurriedly and have the impression that the amendment authorizes the Secretary of the Interior to dispose of the dead and down and also to cut additional green timber. Is it contemplated to have that timber cut at the lumber mill that the Government established a few years ago at Neopit on the Menominee Indian Reservation?

Mr. BURKE of South Dakota. I will say in reply to that inquiry of the gentleman that the item is a Senate amendment. Undoubtedly it is legislation, but owing to a fire during the last year a condition prevails in the Menominee Reservation by which, unless there is some legislation making it possible to

make disposition of the burned timber, there will be great loss to the Indians. This legislation was suggested by the department, and I may say it was very carefully considered by a number of the colleagues of the gentleman in this House and was gone over very fully by the House conferees. It does not go further than the existing law in the amount of green timber that may be cut, but does increase the amount of timber that may be logged sufficiently to take care of the dead and down timber, and it is limited in its operation to the present year. It is proposed to use the mill that the gentleman has referred to in the sawing of this timber.

Mr. STAFFORD. Is the dead and down timber to be exclusively milled at the Government mill at Neopit?

Mr. BURKE of South Dakota. My understanding is that that is the purpose.

Mr. STAFFORD. And this provision is only granting additional authority to the Secretary of the Interior by reason of the exceptional conditions that have arisen since the forest fires of last year?

Mr. BURKE of South Dakota. Yes; and also provides an authorization of an expenditure of some of the funds for the construction of a logging road in order that this dead and down timber may be brought to the mill, there not being any authority of law at present for the construction of a railroad, the law, I believe, being limited to the construction of roads other than railroads.

Mr. STAFFORD. As to the authority of law, I recall when I visited this reservation two years ago that the Government was then engaged in the building of a railroad under the supervision of the Secretary of Agriculture, and I presume there was authority for that construction.

Mr. BURKE of South Dakota. I will say, Mr. Speaker, in response to the suggestion that, having understood that was the case, I made inquiry and was assured by representatives of the department and also by some of the colleagues of the gentleman from his State that there has been in fact no road constructed that could be paid for from the funds of the Indians. Any railroad entering there is part of some railroad company that the Government had no interest in, but I understood that considerable sums had been expended in the construction of other roads, but not railroads.

Mr. STAFFORD. I recall distinctly when the committee on the pulp and paper investigation visited the reservation there was then being graded a road along the Little Wolf River by officials of the Forestry Division of the Department of Agriculture, and I was informed it was to be a Government-aided project.

Mr. BURKE of South Dakota. And having had that information, Mr. Speaker, I made the inquiry, as I have stated, and I have been informed that it is not true.

Mr. STAFFORD. This provision does not seek to vest any authority in the Government to construct a railroad on the reservation?

Mr. BURKE of South Dakota. Except a logging road to get to this section of the reservation where the dead and down timber is located, and unless we make provision for the building of a road it would be impossible to do anything with the timber there.

Mr. STAFFORD. The gentleman does not mean to say that it is necessary to have a branch railroad on this reservation in order to bring the dead and down to the mill at Neopit?

Mr. BURKE of South Dakota. I understand, Mr. Speaker, this is to be a logging road, a sort of road from the section of the reservation where the fallen timber is located to the mill. Whether it is in connection with any other railroad I have no information.

Mr. STAFFORD. I thought it was possible to have the dead and down timber brought on the logging roads without the construction of a branch railroad, because there is plenty of snow up there during the winter season, and the dead and down timber could be brought out.

Mr. BURKE of South Dakota. Our information on that point was that there was no way to get the timber to the mill and that the cost of constructing the road would be nominal and not a matter of any great expense.

Mr. STAFFORD. When you say the construction of a road, you refer to the construction of a railroad?

Mr. BURKE of South Dakota. What we call a logging road; I do not know whether that is a railroad—I suppose it is—rails and ties.

Mr. STAFFORD. This uses the term "railroad" in the amendment. When the gentleman says it will not be constructed at any great expense, from the observation we made we thought the Government at that time was engaged in a very expensive project in the building of a railroad along the Little Wolf River. I can not see the necessity for the Government's



building a railroad, even though it may be a logging road, to be paid for out of the funds of the Indians.

Mr. BURKE of South Dakota. Let me say to the gentleman that the purpose of this legislation is to make it possible to dispose of a very large amount of timber that has been burned and which belongs to the Indians, and unless there is this legislation we are told that the timber will be worthless for any purpose, and that without this logging road you might as well not enact the balance of the legislation. That is our information.

Mr. STAFFORD. I quite agree with the main purpose and approve of it, but if there ever was a demonstration of wastefulness on the part of retaining dead and down timber that was down for four or five or six years until it was absolutely worthless it was shown by the millions of feet piled up all along the Little Wolf River on the reservation.

Mr. BURKE of South Dakota. I would like to ask the gentleman if he can give us the information as to who is responsible. Does he mean to imply by that that the bureau which is charged with the responsibility of looking after the Indians was derelict and negligent in not properly protecting their interests on that reservation, and thereby they suffered, or was it through lack of legislation by Congress or by the fact that the legislation was inoperative.

Mr. STAFFORD. As I understand the situation, when this cyclone occurred some years back that caused so much devastation upon this Indian reservation to the standing timber, the then Representative from that district, Hon. Webster Brown, succeeded in passing through this House a bill whereby that could be utilized, but in another body, as I understand, it met with objection, and not only was that condition not limited to one session, but to more than one session, and as a result the Indians have suffered, and their trust funds have suffered by reason of that policy. As I understand, it was not through any fault of the department officials, but more through the neglect of Congress to come to an agreement by reason of the conflict between the two bodies.

Mr. MANN. That is hardly correct, either. Will the gentleman yield for a question?

Mr. BURKE of South Dakota. Certainly.

Mr. MANN. This contemplates, as I understand, that the present mill upon this reservation shall be used for the purpose of manufacturing into lumber all of the timber on the reservation that ought to be cut and manufactured into lumber.

Mr. BURKE of South Dakota. With the exception that it is limited to 40,000,000 feet. The present law, as I understand it, limits the amount of timber that may be cut—that is, green timber—to 20,000,000 feet.

Mr. MANN. I understand. What I want to get at is this: Under the law that was passed some years ago we authorized the construction of a sawmill upon the reservation, and the Government constructed a very large and expensive sawmill, with a view, at that time not authorized by Congress, but with a view—and I have no criticism of it—of having the sawmill manufacture into lumber the timber on the reservation that could be manufactured into lumber in such a way as to keep the sawmill in perpetual operation, using the matured timber as it should be used.

Now, this 40,000,000 feet contemplated that the timber land upon this reservation shall be perpetually reserved as forest lands, and that 40,000,000 feet would simply take care of that which ought to be taken care of, with the view of the manufacture of that amount for many years, or perpetually.

Mr. BURKE of South Dakota. It is my understanding of this provision that, beyond authorizing the construction of a logging road, it does nothing except to permit the cutting of enough timber to take care of this dead and down timber, and does not increase the amount of green timber that may be cut.

I would like the gentleman, as he is well informed on that subject, to inform the House as to the construction and erection of this mill which he has referred to, as to whether or not that mill was constructed under the Bureau of Forestry or under the Bureau of Indian Affairs, if he knows?

Mr. MANN. It was constructed under the Bureau of Forestry—that is to say, it was done under the Indian Department—but the Bureau of Forestry was called in to take charge of that construction, as I recall it, by law, probably, but whether by law or not, it does not make any difference. They were authorized to do that. They constructed a mill much larger than would ever be required for purposes which were then contemplated, taking the view that, as the Government was entering into the manufacturing business at this reservation, it was economy in the long run to construct a mill of sufficient size to continuously manufacture logs into lumber at this mill. Whether that was wise or not I do not undertake to say. I

thought it was a mistake at the time. The Government has entered upon it. Now, what I wished only to ascertain was whether, that being the case, it had been figured out or concluded whether the amount now authorized would tally in the end and work out, so that this mill might be kept in continuous operation in the future.

Mr. BURKE of South Dakota. I will say to the gentleman that I have heard some of the criticism that he has mentioned in regard to this mill. But as to answering his question as to what the mill will do with this legislation, as to whether or not this will keep it in operation, I am unable to state. The gentleman from Wisconsin [Mr. MORSE], who represents the district in which this reservation is located, perhaps could answer the question of the gentleman.

Mr. MANN. Some time I would like to ask the gentleman about some other items in the report.

Mr. BURKE of South Dakota. I should be very glad to have him do so.

Mr. MORSE. What was the question?

Mr. BURKE of South Dakota. The gentleman from Illinois [Mr. MANN] desires information regarding the mill on the Menominee Reservation, as to whether or not the amount of timber that has been milled at the mill under existing law has been sufficient to keep the mill in operation. If not, whether or not the additional timber that will be manufactured of dead and down will keep it in operation, and whether the mill can take care of it or not.

Mr. MANN. Of course, I know that the present amount is not sufficient to keep the mill in continuous operation. But will the 40,000,000 feet not only keep the mill in operation, but will the cutting of 40,000,000 feet keep the place in continual operation?

Mr. MORSE. In reply to the gentleman from Illinois [Mr. MANN] I will say that one of the estimates made was that the growth on the 10 townships would amount, I think, to a little less than the 40,000,000 feet. But I would like to call the attention of the gentleman from Illinois to the fact that at this time the forest is all matured; that is, it has never been cut over. It is the result of centuries of growth, and for the first 10 or 15 or 20 years it will probably be necessary or advisable to cut at least 50,000,000 feet a year.

Mr. MANN. Perhaps that is the truth, but the gentleman is slightly in error when he says that no timber has ever been cut on this forest, because I myself, personally, have seen too many stumps scattered all through the forest while walking through it.

Mr. MORSE. My statement was not absolutely accurate, and the gentleman is right about that. Heretofore some pine along the streams has been cut by the Indians themselves and floated down the streams and sold at Oshkosh, which is down the river some 50 or 75 miles. But the large part of the forest is uncut. A large part is hardwood, which would not float, and never until this time has there been a railroad; never until within three or four years. None of the hardwood could be taken out, because it would not float. A great many sections, in fact many townships, are composed mainly of hardwood. They are uncut. Of course, the fires in years gone by have run through there somewhat, but it is a magnificent body of hardwood.

Mr. MANN. It is the best I have ever seen, but I have never been to North Carolina or Arkansas to look at the hardwood forests there.

Mr. KOPP. I would like to ask the gentleman from Wisconsin [Mr. MORSE] whether this lumber has been able to compete with other lumber companies in the market?

Mr. MORSE. It has competed to the extent that many of the other lumber companies are doing all in their power to discredit the operation there. The enterprise has been very successful. Of course at the beginning there was a lot of timber that was blown down by the cyclone and it was not taken care of properly. In this matter the legislation was held up for months when it ought to have been passed promptly, and the result was that a large amount of that magnificent hardwood rotted in the woods and was destroyed. But since that the mill has been running successfully, and has been manufacturing lumber in successful competition with private institutions.

Mr. STAFFORD. I would like to direct the attention of the gentleman to the provision here authorizing the construction of a logging railway. Will the gentleman inform the House as to the necessity of constructing, at Government expense, a logging railway in this small reservation?

Mr. MORSE. Yes; with pleasure. It was supposed by many Members of this House when this measure was drawn that a little logging railway could be put in there on the reservation. The Attorney General, however, who advises the Indian Department, told them that it could not be constructed under the law. Now, in order to make it sure, we are giving them this power to build this little logging railway.

Mr. STAFFORD. As I understand, there was one that was projected, if not partly constructed, there two years ago.

Mr. MORSE. I do not remember that.

Mr. STAFFORD. Two years ago there was some construction of a logging railway on the Little Wolf River under Government supervision.

Mr. MORSE. The Government operated in cooperation with the Wisconsin Northern Railroad Co. there, and in order to get the rails down promptly I believe they did a little grading and furnished their own ties.

Mr. STAFFORD. They not only did that, but they also put in some bridges, as I understand.

Mr. GOULDEN. What is the extent and quality of the timber in this reservation?

Mr. MORSE. It is the finest body of hardwood left in the Northwest, probably the finest on the American Continent.

Mr. GOULDEN. What is the extent in acres?

Mr. MORSE. Ten townships. Of course, as the gentleman from Illinois has suggested, some of it was cut off years ago. A little of it is burnt over, but there are probably six or seven and possibly eight townships of solid timber left standing.

Mr. GOULDEN. Five or six thousand acres in round figures?

Mr. MORSE. Oh, a great deal more than that.

Mr. COOPER of Wisconsin. A township contains 36 square miles, and each square mile contains 640 acres.

Mr. GOULDEN. The gentleman stated that the timber had rotted. What kind of hard wood would rot so quickly?

Mr. MORSE. Basswood will rot in one summer. Birch will spoil almost completely in one summer.

Mr. GOULDEN. You mean wood that has been cut down?

Mr. MORSE. Down timber.

Mr. GOULDEN. Not standing and alive.

Mr. MORSE. Timber that was blown down by a cyclone.

Mr. GOULDEN. Was there much of it blown down?

Mr. MORSE. Yes; there was 50,000,000 feet of it blown down.

Mr. MILLER of Minnesota. I should like to ask the gentleman from Wisconsin if he can tell us approximately how many feet of hardwood timber are to be found on this reservation.

Mr. MORSE. I have not the figures. I am sorry I can not tell the gentleman.

Mr. MILLER of Minnesota. As a matter of fact, does it not run up into the hundreds of millions of feet?

Mr. MORSE. Yes; indeed.

Mr. MILLER of Minnesota. A further question. In a logging and milling plant commensurate with the size of this undertaking in these modern times, is it not absolutely essential that there be some kind of a logging railroad?

Mr. MORSE. It is. I do not know of one modern plant in northern Wisconsin that does not have some sort of a logging railroad connected with it.

Mr. MONDELL. Is it not true that most of your logging in Wisconsin is carried on in the winter on sleds?

Mr. MORSE. Yes.

Mr. MONDELL. Is it not expensive to log by railroad?

Mr. MORSE. No; it is less expensive to log by railroad. Understand that some of this timber is 7 or 8 miles away from the mill, and you can not haul that distance on sleds to advantage.

Mr. MONDELL. They do in Wisconsin.

Mr. MORSE. A township is 6 miles across, and there are 10 townships here.

Mr. BURKE of South Dakota. I yield to the gentleman from Minnesota [Mr. MILLER] for a statement.

Mr. MILLER of Minnesota. Mr. Speaker, there seems to be some little uncertainty in the minds of the membership of the House as to the advisability of this logging railroad. Having lived for some years in a lumber and logging community, I feel that my statement may be of some value in this connection. Years ago it was the common method to conduct logging operations exclusively by teaming and skidding. In recent years, however, that method has been found extremely expensive, and under the competition that now exists it is almost unknown as an exclusive method. There is now a combination of the two, the logging railway and the team. The team hauls the logs from the place where they are cut and banks them in a convenient place at the railroad track, and the railroad then hauls the logs to the mill. I do not think there is a lumber company in Wisconsin or Minnesota of any magnitude but that has as an essential part of its system some kind of a logging railway. Do not understand that this contemplates the construction of a permanent roadbed and trestles and that sort of thing. They run the railroad track right along on the surface, and if you ride over it you think you have gone to sea in a sailboat. The track is simply laid upon the surface and is very rough in places—is simply laid down for this particular purpose and moved about as prosecution of the work requires. While to gentlemen who are not familiar with the subject it may seem

singular that a logging railway should be needed, yet everyone acquainted with logging operations knows that for a project of any size it is absolutely essential to successful operation of the plant.

Mr. BURKE of South Dakota. I yield to the gentleman from Wyoming [Mr. MONDELL] for a question.

Mr. MONDELL. I wish to ask the gentleman from Minnesota a question.

Mr. BURKE of South Dakota. I now yield to the gentleman from Wyoming.

Mr. MONDELL. Mr. Speaker, the gentleman from Minnesota has partly answered the question that I intended to ask, but I want to ask the chairman of the committee if he has investigated personally the question of the necessity of constructing logging railroads in this particular locality, and to what extent they expect to build them.

Mr. BURKE of South Dakota. I have not, Mr. Speaker, beyond being assured that the only logging road contemplated is to get into the section where the burned timber is located.

Mr. MONDELL. This is to supply the necessity arising from the project that was passed by the House some years ago?

Mr. BURKE of South Dakota. It is.

Mr. MONDELL. And it is necessary, in view of the fact that we have embarked on that undertaking, and the gentleman recollects that when the matter was in the House there was considerable objection to it, but it was heralded through the press and in magazine articles, very complimentary to the undertaking, which pleased all the friends of State socialism as an illustration of the wonderful things that could be done under Government supervision. But after the bubble was pricked it was discovered that the extravagancies that often attend Government undertakings in the domain of private enterprise had occurred here, and that the Indian fund had been vastly depleted by the tremendous expense in the building of this mill and the expensive lumber operations. Does the gentleman believe that we can hope for any better results in the future than the very unsatisfactory results in the past?

Mr. BURKE of South Dakota. I will say to the gentleman that I have not information sufficient to indorse what might be termed the "whereas" that precedes his question.

The question being predicated upon a state of affairs that may or may not exist, I am unable to answer the question, except to say that I have sufficient information to believe that no matter what has transpired in the past, now and henceforth there will be nothing that can be seriously criticized in the administration of the cutting of the timber and the manufacturing of the lumber at this mill to which the gentleman has referred.

Mr. MONDELL. I realize and approve the attitude of the gentleman in refraining from criticism, but it seems to me it is just to the House and fair to the country that the facts should not be overlooked. That it did turn out that this undertaking was tremendously expensive, that the results were nothing like what were prophesied for the undertaking, and that instead of being so useful and valuable and helpful as was widely prophesied and widely heralded should not be lost sight of, as a matter of fact it was almost a scandal, a tremendous expense, and I think I may properly say a harmful extravagance.

Mr. BURKE of South Dakota. I wish to suggest to the gentleman, and I know he will appreciate it, that this comes up in an entirely different way than would be the case if there was a bill to change materially the conditions with relation to the cutting of timber and the disposition of timber upon this reservation. The only question that is involved in this amendment is to make it possible to cut some timber that has been burned over in the last year that will be destroyed unless we provide for its manufacture. We do not change the existing law in any particular, except to increase the amount of timber that may be cut, limiting the increase to the down timber, and authorize the construction of this logging road.

Now, the only thing I sought to obtain information about related to the conditions and to ascertain whether they are such as to demand some remedial legislation to make it possible to save to the Indians this great amount of timber that otherwise would go to destruction. Therefore we did not go into the question which the gentleman has in mind when he asked this question, which he evidently asked laboring under the impression that there are conditions there that have not proved practical and that might be criticized. I do not know what those conditions are from any personal investigation.

Mr. MONDELL. I am not laboring under any such impression. The facts are well known to those who have taken the trouble to investigate them. As I understand it, the committee is endeavoring to make the best of a situation entered upon under exaggerated and flamboyant promises of splendid results to be achieved, in the achievement of which the country was sadly disappointed.



Mr. BURKE of South Dakota. The gentleman is endeavoring to make something out of a bad situation caused by a fire destroying a great quantity of timber in the reservation.

Mr. MONDELL. The destruction of the timber by the fire really had nothing to do directly with the undertaking of this enterprise. It might possibly have been made an excuse—I do not recall as to that—but if that were so, it was simply an excuse for the undertaking.

Mr. BURKE of South Dakota. I will say to the gentleman that he certainly does not wish to say this legislation is proposed except because of a condition that is caused by this fire. That is the only thing that suggests it. That is the only thing that it does.

Mr. MONDELL. It keeps the mill running, and it was stated that under legislation as it stood the mill would not have sufficient lumber.

Mr. BURKE of South Dakota. That question of keeping the mill running was not considered, and when the legislation was enacted it was proposed, as I recall, in the House, I think by the House bill, to make the amount of green timber that might be marketed 50,000,000 of feet annually.

Mr. MORSE. Yes; that was the amount in the original bill.

Mr. BURKE of South Dakota. And I think, at the instance of the gentleman from Illinois [Mr. MANN] and the gentleman from New York [Mr. FITZGERALD], perhaps, there was an objection to there being so large an amount as that authorized to be cut annually, and it was reduced in the House.

Mr. MORSE. It was reduced to 25,000,000. Will not the gentleman from South Dakota yield to me to answer the question?

Mr. BURKE of South Dakota. I will yield to the gentleman later, but my understanding is that it was changed in the Senate, and when it became a law it was 20,000,000 feet.

Mr. MONDELL. Before the gentleman from Wisconsin takes the floor, if I have not lost my right, I simply want to say that I have no objection to the legislation. I think the committee has made the best of a bad situation. I feel as though it was proper to have the facts in regard to the matter brought to the memory of Members of the House, in order that we may not make a like mistake in the future.

Mr. CAMPBELL. Mr. Speaker, I do not understand why the gentleman from Wyoming persists in asserting and reasserting that we are trying to get out of a bad situation here or to correct a blunder that has heretofore been made by any administrative officer or by the Congress. We are endeavoring to market some down timber, the result of a fire, and authorizing the cutting of enough green timber to make roads so as to get that down and dead timber to the mill. That is all this agreement was inserted for and all the purpose that it has in this bill at this time.

Mr. STAFFORD. Does the committee have any information as to the expense that would be occasioned by the building of this logging railway?

Mr. CAMPBELL. Oh, it was estimated anywhere from \$20,000 to \$40,000.

Mr. STAFFORD. Twenty to forty thousand dollars would only build about 1 mile on the scale that the work was being undertaken some two years ago, because in that hilly country it was very difficult to lay any logging railway.

Mr. KENDALL. It was only a temporary road?

Mr. STAFFORD. The road then being built was of a permanent character.

Mr. BURKE of South Dakota. Mr. Speaker, I yield to the gentleman from Wisconsin [Mr. MORSE] for five minutes.

Mr. MORSE. Mr. Speaker, I feel that I must answer the innuendo contained in the question of the gentleman from Wyoming [Mr. MONDELL]. In the first place, we are not trying to get out of a bad situation; it is not a bad situation. It is a good proposition. This mill was put in there for the purpose of giving the Indians work, and does give them work. There are over 200 Indians out of that little tribe working continually. You are making men out of them, you are giving them work right there at home and giving them a valuable occupation.

Mr. STAFFORD. Can the gentleman inform the House of the number of Indians that are daily employed in this Neopit mill?

Mr. MORSE. The number varies. There are not so many in the mill, but a large number in the lumber camps, so that it runs some months as high as 300.

Mr. MONDELL. Do I understand the gentleman to say that the Indians would not work unless they could work for the Government?

Mr. MORSE. They had no chance to work. Under the rules of the Government, if they leave the reservation they lose their

rights and there is no place to work there unless the timber is cut, and the timber is being cut on the reservation and being manufactured by Indian labor, and it is being manufactured at \$10.24 per thousand feet, and they are running in competition with private business and they are being paid for the work.

Mr. McGUIRE of Oklahoma. Mr. Speaker, does the gentleman refer to the mill on the Menominee Indian Reservation?

Mr. MORSE. I do.

Mr. McGUIRE of Oklahoma. I understood the gentleman to say that it was a profitable enterprise.

Mr. MORSE. And I repeat it.

Mr. McGUIRE of Oklahoma. The evidence before the Committee on Expenditures in the Interior Department is to the effect, coming direct from the Interior Department, that it costs that tribe of Indians nearly a millions dollars to institute and conduct this enterprise and it has been done at a loss of nearly \$1,000,000 to this tribe of Indians.

Mr. MORSE. I have a statement; I get the monthly statement from the Indian department itself each month frequently. Of course, it has been a large investment. What have you done? You have taken 20 townships of land; you are creating the most magnificent forest reserve on the American Continent. We have assisted in the building of railroads, sidetracks; we have built a magnificent mill, the finest in northern Wisconsin, and we have equipped it and it is in operation.

Mr. McGUIRE of Oklahoma. Is it not the statement of the Interior Department that the kind and character of this mill is not what it should be for the manufacture of this timber; that is, the capacity of the mill is very much greater than necessary for the manufacture of timber?

Mr. MORSE. The gentleman is in error; he has not listened to the debate. The capacity is not too large for the amount of timber there on the reservation. Listen, the capacity is too large for the amount of timber that they are permitted to cut under the law as it was originally passed by this House, and what we are trying to do right here by this amendment is to enlarge that amount. Now, my time is almost up, and I want to say, in reply to the gentleman from Wyoming with regard to State socialism, that I am informed he is about to or has reported into this House, or will within a day or two, a bill that goes further in the direction of State socialism than this bill ever thought of doing. He wants to mine coal on public land, the Government retaining title and control of those lands. If that is not State socialism I want to know what is.

Mr. MONDELL. It does not involve any draft on the Treasury, but it puts funds into the Treasury.

Mr. MORSE. This does not cost the Treasury 1 cent; the gentleman from Wyoming knows better than that.

Mr. MONDELL. Better than what?

Mr. MORSE. That this operation costs the Government a penny.

Mr. MONDELL. It costs over a million dollars—

Mr. MORSE. Of the Indians' money.

Mr. MONDELL. Oh, you take it from the Indians.

Mr. MORSE. The Indians' money is being used to develop their own plant and their own operations, and not one cent of the money has been taken out of the Treasury that did not belong to these Indians. I want to state further that this has not been a tremendously expensive proposition. The funds have not been depleted. They have been invested, and properly invested, and in place of its being a failure it is a success not only from a business standpoint, but a success from the standpoint of the Indians, and that is of primary importance, in placing the mill on this reservation; and I want to say to the gentleman if he bases his conclusion on the statement of that man who appeared before the Pinchot-Ballinger investigating committee that he has based it upon a tissue of falsehood from beginning to end. I wanted at that time to call the attention of this House to it.

Mr. MONDELL. I never heard of any statement of that character nor ever read any of the evidence before the committee.

Mr. MORSE. That was sent broadcast over the land, and I supposed the gentleman was basing his opinion on the opinion of that man who appeared before that committee.

Mr. MONDELL. My information comes entirely from official sources, I will say to the gentleman.

Mr. MORSE. The gentleman's information is misinformation.

Mr. MONDELL. Then it is official misinformation if it be misinformation.

Mr. MORSE. I think that is probably true, too.

Mr. BURKE of South Dakota. I yield to the gentleman from Oklahoma [Mr. McGUIRE].

The SPEAKER. The House has seemingly been proceeding by unanimous consent. The gentleman has not used an hour

yet. Although no motion is pending for time, I suppose the gentleman having the floor is entitled to an hour.

Mr. BURKE of South Dakota. Mr. Speaker, how much time is there remaining?

The SPEAKER. The gentleman has 15 minutes left of the hour.

Mr. BURKE of South Dakota. I would say, Mr. Speaker, if there are going to be many inquiries regarding different provisions in this bill, I do not care to discuss this one any further unless we can have some understanding as to the time.

The SPEAKER. The gentleman has had his time seemingly by unanimous consent. The Chair did not think proper to interrupt the gentleman, as everybody seemed to be happy. [Laughter.] The gentleman will proceed.

Mr. CARLIN. I want to suggest to the gentleman from South Dakota that we have no desire to postpone this conference report, but we do not wish to allow this conference report to be used for the purpose of defeating claims day.

Mr. BURKE of South Dakota. I will say to the gentleman that there is no disposition on the part of the gentleman in charge of this report to consume any time more than is absolutely necessary for the consideration of this report.

Mr. SIMS. The gentleman makes no motion.

Mr. BURKE of South Dakota. I am going to do so as soon as the gentleman from Oklahoma [Mr. McGuire] makes a statement.

Mr. MCGUIRE of Oklahoma. Mr. Speaker, I am not quite willing to allow the statement of the gentleman from Wisconsin [Mr. Morse] to go unchallenged with respect to the establishment and operation of this mill on the Menominee Indian Reservation. Before the Committee on Expenditures in the Interior Department there were a great number of witnesses who had personal knowledge of the situation and conditions on this reservation. The Indians, when this mill was established, had about \$3,000,000 in cash. After the mill had been operated for some months the Indians had nearly \$2,000,000 in cash. Every dollar that has been spent of the \$3,000,000 has been spent in the construction and operation of this mill. According to the testimony of the officers of the Interior Department, the capacity of the mill was much greater than was necessary for the sawing and manufacturing of timber adjacent to the mill. There is other timber in that country, according to the testimony, but no timber near enough and accessible to the mill to be used by it, and the sum total of the facts are that \$1,000,000, nearly, of the money of these Indians has been squandered by this unfortunate enterprise. I do not know whose fault it was. I do know this, that the Commissioner of Indian Affairs undertook to and did farm out some of his duties to the Forest Service, and under the supervision of the Forest Service they proceeded to construct this mill and manufacture the lumber, and the money of the Indians was squandered, and somebody is responsible for it. That is on the uncontradicted testimony of every witness before the Committee on Expenditures in the Interior Department.

Mr. MORSE. Just a word or two. The Forestry Department had nothing whatever to do with it, except to mark the trees.

Mr. MCGUIRE of Oklahoma. The Forestry Department were in charge of this mill and a gentleman detailed from the Forestry Department was superintendent of this enterprise.

Mr. MORSE. However, he was working for the Interior Department, and it was all done under the supervision of the Interior Department. I just wanted to correct the gentleman.

Mr. MCGUIRE of Oklahoma. It was done by contract, and the contract explains itself. It was done under a contract between the Commissioner of Indian Affairs and the Forestry Department, or Mr. Pinchot.

Mr. BURKE of South Dakota. Mr. Speaker, I move the adoption of the conference report.

The SPEAKER pro tempore (Mr. Olcott). The gentleman from South Dakota moves the adoption of the conference report.

Mr. MANN. Will the gentleman yield for a question?

Mr. BURKE of South Dakota. Certainly.

Mr. MANN. May I ask if amendment 16, on page 9, as printed, was agreed to?

Mr. BURKE of South Dakota. It was agreed to; yes, sir.

Mr. MANN. Just what is the purpose in providing in the bill that "the following sums be, and they are hereby, appropriated out of any money in the Treasury," and then, when you get over to this Senate amendment, provide that "there is hereby appropriated the sum of \$30,000?" Since when did we commence to form bills in that way?

Mr. BURKE of South Dakota. I can only say to the gentleman the item to which he refers is an amendment of the Senate creating a revolving or reimbursable fund.

Mr. MANN. I am not discussing the merits of the proposition. I am trying to get at the reason for inserting in the body of the bill at various places the words "there is hereby appro-

riated" certain sums, when the first part of the bill starts out, in the first section, with an appropriation.

Mr. BURKE of South Dakota. I will say to the gentleman the language used is the language adopted by another body.

Mr. MANN. I understand. Subject to amendment, however.

Mr. BURKE of South Dakota. Wait a moment. The committee followed the language in the Indian appropriation bill approved April 4, 1910, verbatim, and just how the language happens to be in this form, in view of the fact that the last year's bill passed when the gentleman from Illinois [Mr. MANN] was present, is something that I can not answer.

Mr. MANN. I can say to the gentleman from South Dakota [Mr. BURKE] that last year's bill did not pass the House in that shape. The same thing is true on page 11 with respect to amendment numbered 18. It seems to me that the gentleman's committee in conference ought to put the Senate amendment in the proper shape. It can not be expected that that shall be done in some other body.

Mr. BURKE of South Dakota. I do not think the gentleman need take any time in discussing the phraseology of an amendment that has been disagreed to in conference.

Mr. MANN. I do as to the form of the item.

Mr. BURKE of South Dakota. We disagreed to it, both as to form and everything else.

Mr. MANN. The gentleman from South Dakota [Mr. BURKE] agreed to the form of amendment 16, did he not?

Mr. BURKE of South Dakota. Yes.

Mr. MANN. I call it to the attention of the gentleman in the hope that, if agreed to, it will be put in the proper form.

Mr. BURKE of South Dakota. I think it is a technical criticism that the gentleman makes.

Mr. BYRNS. Mr. Speaker, I desire to call the attention of the gentleman from South Dakota [Mr. BURKE] to amendment No. 57, on page 38 of the bill—a Senate amendment. I notice it provides for the repayment to J. Blair Shoenfelt, late United States Indian agent at the Union Agency, Okla., the sum of \$3,578.63 for money embezzled by Lyman K. Lane, formerly financial clerk and cashier at that agency, for which the bill states the said Shoenfelt was accountable. Will the gentleman give some explanation as to why that money should be repaid?

Mr. BURKE of South Dakota. I will say that this amendment was not agreed to by the House conferees until after a number of days' discussion over the different amendments, and it was then with great reluctance that we did recede, not so much on account of the merits of it, but on account of the fact that it constitutes a claim, and we did not like to consent to anything in the nature of a claim being put upon this bill.

The facts of the case are that the shortage existed in the Union Agency in Oklahoma. The agent was short this sum of money that is herein mentioned. The shortage was due to an alleged embezzlement by some employee at the agency, and the superintendent or the agent got no part of the money himself. It was the subject of a very full report made by the Senate Committee on Claims, which went into it exhaustively, and it appeared to the committee that the merits of the claim were such as perhaps to demand the allowance of it. If the gentleman has ever had any experience in conference, he will know that he can not have his way in everything. The item was a small matter, and after discussion we receded and consented that this provision should go in.

Mr. FITZGERALD. Will the gentleman yield?

Mr. BURKE of South Dakota. Yes.

Mr. FITZGERALD. This amendment proposes to do two things?

Mr. BURKE of South Dakota. Yes.

Mr. FITZGERALD. First, to repay the agent the amount of money that he was compelled to pay into the Treasury, and, second, to credit the Indian fund with the amount embezzled. What sense is there in the United States making good the default on the Indians?

Mr. BURKE of South Dakota. I do not comprehend the gentleman's question.

Mr. FITZGERALD. I say this amendment provides two things: First, the repayment of the money that the agent was compelled to pay because of the defalcation, and, secondly, it compels the United States to make good the amount that was stolen from the Indian funds.

Mr. BURKE of South Dakota. It is not Indian funds. It is the fund that was appropriated, as I understand it, for that agency. The superintendent has made good this shortage to the amount that it is proposed to repay him, and the balance is charged to him. The purpose of it is to repay him what he has paid and relieve him of the amount charged against him on the books.

Mr. BYRNS. What became of the money he repaid?



Mr. BURKE of South Dakota. It went into the Treasury, I presume.

Mr. BYRNS. Not to the credit of the fund from which it was taken.

Mr. BURKE of South Dakota. I do not understand that this was an Indian fund.

Mr. CARLIN. Mr. Speaker, under what order are we proceeding? Is it by unanimous consent?

The SPEAKER pro tempore. We are proceeding under the rule which gives to the gentleman from South Dakota [Mr. BURKE] one hour.

Mr. BURKE of South Dakota. I move the previous question on the motion to agree to the conference report.

Mr. MANN. Without any explanation of any of these other things?

Mr. BURKE of South Dakota. If I can get further time, I shall be very glad to have an explanation of everything; but I do not wish to lose control of the floor. I withhold the motion for a moment.

Mr. BYRNS. I should like to have some further explanation of this item.

Mr. BURKE of South Dakota. I will consent to any time that is desired to discuss this report, but I do not propose to lose control of the floor within my hour without moving the previous question, unless I have an extension of time.

The SPEAKER pro tempore. The Chair will say to the gentleman from South Dakota that his hour has almost expired.

Mr. CAMPBELL. Mr. Speaker, a parliamentary inquiry.

Mr. BURKE of South Dakota. I yield to the gentleman from Kansas.

Mr. CAMPBELL. The gentleman from South Dakota took the floor and a general discussion ensued on the bill without any motion. The Speaker stated that evidently the discussion was proceeding by unanimous consent, there having been no motion made relative to the conference report. The gentleman from South Dakota a few moments ago moved to agree to the conference report. He made that motion not to exceed 10 minutes ago. Is he not entitled to one hour from the time he made the motion?

The SPEAKER pro tempore. That was merely a formal motion, but the gentleman within his hour has moved the previous question.

Mr. CAMPBELL. Mr. Speaker, I will take the floor in my own right.

The SPEAKER pro tempore. The gentleman can not take the floor in his own right when the previous question has been moved.

Mr. CAMPBELL. But not put.

Mr. BURKE of South Dakota. I withdraw the motion for the present.

Mr. SIMS. Then I renew it.

Mr. CAMPBELL. I have the floor, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. Sims] moves the previous question.

Mr. CAMPBELL. But the gentleman from Tennessee does not have the floor, Mr. Speaker. I have the floor.

Mr. SIMS. Recognition is with the Chair.

The SPEAKER pro tempore. The gentleman from South Dakota made the motion for the previous question on the adoption of the conference report. Then he withdrew it, and the gentleman from Tennessee [Mr. Sims] renewed the motion for the previous question.

Mr. CAMPBELL. But the gentleman from Tennessee could not get the floor for that purpose while I had the floor.

The SPEAKER pro tempore. The gentleman merely had the floor to make a parliamentary inquiry, and the motion before the House is for the previous question.

Mr. CAMPBELL. Mr. Speaker, let me call the attention of the Chair to the fact that I had the floor.

Mr. MANN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. MANN. In giving recognition, is not a member of the committee entitled to recognition prior to the gentleman from Tennessee, who is not a member of the committee?

The SPEAKER pro tempore. Not when a motion for the previous question is made. The motion for the previous question takes precedence.

Mr. MANN. Oh, not at all, unless the gentleman making the motion has the floor. Under that construction, Mr. Speaker, anyone could get up and move the previous question at any time.

Mr. BURKE of South Dakota. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. BURKE of South Dakota. The gentleman from South Dakota who made the motion for the previous question withdrew that motion.

Mr. SIMS. And I renewed it.

Mr. BURKE of South Dakota. The gentleman from Kansas demanded recognition. The gentleman from Tennessee [Mr. Sims] got up from his place and, without addressing the Chair, said, "I renew it," without getting recognition. Now, I desire to know if he would be recognized in preference to the gentleman from Kansas, who was demanding recognition from the Chair?

The SPEAKER pro tempore. The motion for the previous question would be recognized in preference to the recognition of the gentleman from Kansas.

Mr. CAMPBELL. The gentleman from Tennessee did not address the Chair.

The SPEAKER pro tempore. Oh, the gentleman from Tennessee did address the Chair. Upon the withdrawal of the motion for the previous question by the gentleman from South Dakota, the gentleman from Tennessee renewed the motion.

Mr. BUTLER. Mr. Speaker, a parliamentary inquiry. Has the Chair decided the dispute; and if so, will the Chair stand by his decision? We are only wasting time.

The SPEAKER pro tempore. The Chair will put the motion for the previous question.

The question was taken; and on a division (demanded by Mr. MANN) there were 66 ayes and 30 noes.

Mr. MANN. I make the point of order that no quorum is present.

The SPEAKER pro tempore. Evidently there is no quorum present.

Mr. MANN. I move a call of the House.

The SPEAKER pro tempore. The gentleman from Illinois makes a point of no quorum and moves a call of the House. The Doorkeeper will close the doors; the Sergeant at Arms will notify absent Members. All those in favor of ordering the previous question will, when their names are called, answer "aye" and those opposed "no." The Clerk will call the roll.

The question was taken; and there were—yeas 183, nays 80, answered "present" 4, not voting 117, as follows:

## YEAS—183.

Adair	Dies	Jones	Plumley
Adamson	Douglas	Kahn	Pou
Aiken	Draper	Kellher	Pray
Alexander, Mo.	Edwards, Ga.	Kinkaid, Nebr.	Prince
Alexander, N. Y.	Edwards, Ky.	Kitchin	Pujo
Ames	Ellerbe	Lamb	Rainey
Anderson	Ellis	Langley	Randell, Tex.
Ansberry	Elvins	Law	Rauch
Ashbrook	Englebright	Lawrence	Reeder
Austin	Estopinal	Lee	Richardson
Barchfeld	Finley	Legare	Robinson
Bartholdt	Flood, Va.	Lever	Rothermel
Bartlett, Nev.	Floyd, Ark.	Lindbergh	Rucker, Mo.
Beall, Tex.	Focht	Livingston	Saunders
Bell, Ga.	Foss	Lloyd	Shackelford
Boehne	Galnes	Loud	Sheffield
Borland	Garner, Tex.	McCredie	Sheppard
Brantley	Garrett	McHenry	Sherwood
Broussard	Gillespie	McKinlay, Cal.	Sims
Burgess	Glass	McKinley, Ill.	Sisson
Burleson	Godwin	McKinney	Slemp
Burnett	Gordon	McLachlan, Cal.	Small
Byrd	Graff	McLaughlin, Mich.	Smith, Tex.
Byrns	Graham, Ill.	Macon	Southwick
Calderhead	Grant	Maguire, Nebr.	Sparkman
Candler	Hamlin	Malby	Stanley
Cantrill	Hammond	Martin, Colo.	Steenerson
Carlin	Hardwick	Martin, S. Dak.	Stephens, Tex.
Carter	Harrison	Massey	Sterling
Cary	Hawley	Mays	Sulzer
Clark, Mo.	Hay	Miller, Minn.	Talbot
Clayton	Hayes	Mitchell	Taylor, Ala.
Cline	Heflin	Mondell	Taylor, Colo.
Cole	Helm	Moon, Tenn.	Thomas, Ky.
Collier	Henry, Conn.	Moore, Pa.	Thomas, N. C.
Cowles	Henry, Tex.	Morgan, Okla.	Tou Velle
Cox, Ohio	Higgins	Morrison	Townsend
Craig	Hollingsworth	Morse	Turnbull
Creager	Howell, N. J.	Needham	Underwood
Crow	Hubbard, Iowa	Nicholls	Washburn
Currier	Hughes, Ga.	O'Connell	Watkins
Dawson	Hughes, N. J.	Oldcott	Webb
Dent	Hull, Tenn.	Oldfield	Weeks
Denver	Jamieson	Padgett	Wickliffe
Dickinson	Johnson, Ky.	Page	Woodyard
Dickson, Miss.	Johnson, S. C.	Pearre	

## NAYS—80.

Anthony	Cooper, Pa.	Esch	Griest
Barnard	Cooper, Wis.	Fassett	Gurnsey
Bartlett, Ga.	Cox, Ind.	Ferris	Hanna
Bennet, N. Y.	Cullop	Fish	Hitchcock
Boutell	Dalzell	Fitzgerald	Houston
Burke, Pa.	Diekema	Fordney	Howell, Utah
Burke, S. Dak.	Dixon, Ind.	Foster, Ill.	Hull, Iowa
Butler	Dodds	Foster, Vt.	Johnson, Ohio
Campbell	Driscoll, M. E.	Fuller	Kendall
Cassidy	Durey	Garner, Pa.	Kennedy, Ohio
Chapman	Dwight	Good	Knapp

Korbly	Morgan, Mo.	Roberts	Taylor, Ohio
Klistermann	Moss	Rodenberg	Thistlewood
Langham	Moxley	Scott	Thomas, Ohio
Latta	Nelson	Smith, Iowa	Tilson
Longworth	Nye	Snapp	Volstead
McGuire, Okla.	Palmer, H. W.	Stafford	Vreeland
Madden	Parker	Stevens, Minn.	Wheeler
Mann	Parsons	Sulloway	Wiley
Miller, Kans.	Pickett	Tawney	Young, Mich.

Hubbard, W. Va.	ANSWERED "PRESENT"—4.	Young, N. Y.
Kopp	McCall	

## NOT VOTING—117.

Allen	Gardner, Mass.	Keifer	Poindexter
Andrus	Gardner, Mich.	Kennedy, Iowa	Pratt
Barclay	Gardner, N. J.	Kinthead, N. J.	Ransdell, La.
Barnhart	Gill, Md.	Knowland	Reid
Bates	Gill, Mo.	Kronmiller	Rhinock
Bennett, Ky.	Gillett	Lafean	Riordan
Bingham	Goebel	Lenroot	Roddenbery
Bocher	Goldfogle	Lindsay	Rucker, Colo.
Bowers	Goulden	Lively	Sabath
Bradley	Graham, Pa.	Loudenslager	Sharp
Burleigh	Greene	Lowden	Sherley
Calder	Gregg	Lundin	Simmons
Capron	Hamer	McCreary	Slayden
Clark, Fla.	Hamill	McDermott	Smith, Cal.
Cocks, N. Y.	Hamilton	McMorran	Smith, Mich.
Conry	Hardy	Madison	Sperry
Coudrey	Haugen	Maynard	Spight
Covington	Havens	Millington	Sturgiss
Cravens	Heald	Moon, Pa.	Swasey
Crumpacker	Hill	Moore, Tex.	Wallace
Davidson	Hinsbaw	Morehead	Wanger
Davis	Hobson	Mudd	Weisse
Denby	Howard	Murdoch	Willett
Driscoll, D. A.	Howland	Murphy	Wilson, Ill.
Dupre	Huff	Norris	Wilson, Pa.
Fairchild	Hughes, W. Va.	Olmsted	Wood, N. J.
Foelker	Humphrey, Wash.	Palmer, A. M.	Woods, Iowa
Fornes	Humphreys, Miss.	Patterson	
Fowler	James	Payne	
Gallagher	Joyce	Peters	

So the previous question was ordered.

The following pairs were announced:

For the session:

Mr. BRADLEY with Mr. GOULDEN.

Mr. ANDRUS with Mr. RIORDAN.

Mr. YOUNG of New York with Mr. FARNES.

Until further notice:

Mr. HUMPHREY of Washington with Mr. HARDY.

Mr. SIMMONS with Mr. MAYNARD.

Mr. HEALD with Mr. SLAYDEN.

Mr. FAIRCHILD with Mr. CRAVENS.

Mr. WOOD of New Jersey with Mr. PATTERSON.

Mr. SMITH of California with Mr. HOWARD.

Mr. PAYNE with Mr. LINDSAY.

Mr. BATES with Mr. GILL of Maryland.

Mr. MURDOCK with Mr. RHINOCK.

Mr. GARDNER of Michigan with Mr. MOORE of Texas.

Mr. CAPRON with Mr. CLINE.

Mr. HUGHES of West Virginia with Mr. WILLETT.

Mr. BINGHAM with Mr. BOWERS.

Mr. BURLEIGH with Mr. CLARK of Florida.

Mr. CALDER with Mr. CONRY.

Mr. CRUMPACKER with Mr. GALLAGHER.

Mr. DAVIDSON with Mr. GILL of Missouri.

Mr. DAVIS with Mr. GOLDFOGLE.

Mr. DENBY with Mr. GREGG.

Mr. GARDNER of New Jersey with Mr. HAMILL.

Mr. GILLETT with Mr. HAYENS.

Mr. GREEN with Mr. HOBSON.

Mr. HILL with Mr. HUMPHREYS of Mississippi.

Mr. HOWLAND with Mr. KINHEAD of New Jersey.

Mr. KENNEDY of Iowa with Mr. WALLACE.

Mr. KNOWLAND with Mr. PETERS.

Mr. KRONMILLER with Mr. REID.

Mr. LAFEAN with Mr. RUCKER of Colorado.

Mr. LOUDENSLAGER with Mr. SHARP.

Mr. LOWDEN with Mr. RODDENBERY.

Mr. MCMORRAN with Mr. SHERLEY.

Mr. MADISON with Mr. SPIGHT.

Mr. MILLINGTON with Mr. WILSON of Pennsylvania.

Mr. MOREHEAD with Mr. BARNHART.

Mr. OLMSTED with Mr. BOOHER.

Mr. SMITH of Michigan with Mr. LIVELY.

Mr. WILSON of Illinois with Mr. DANIEL A. DRISCOLL.

On this vote:

Mr. WANGER with Mr. KOPP.

Until February 20, noon:

Mr. MOON of Pennsylvania with Mr. WEISSE.

Mr. MCCREARY with Mr. DUPRE.

Mr. GRAHAM of Pennsylvania with Mr. A. MITCHELL PALMER.

Mr. MCCALL with Mr. JAMES.

Until February 21, noon:

Mr. MURPHY with Mr. COVINGTON.

Commencing February 10 and ending February 18, inclusive:

Mr. JOYCE with Mr. RANDELL of Louisiana.

Commencing February 10 and ending February 20, inclusive:

Mr. HUBBARD of West Virginia with Mr. SABATH.

Commencing February 21 and ending March 1:

Mr. SPERRY with Mr. McDERMOTT.

The result of the vote was then announced as above recorded.

The SPEAKER. The Doorkeeper will open the doors, and the question now is on agreeing to the conference report.

The conference report was agreed to.

Mr. BURKE of South Dakota. Mr. Speaker, I move to further insist on the disagreement of the House to the Senate amendment No. 48, and to consent to the request of the Senate for a further conference.

The SPEAKER. There seems to be three amendments here that are not disposed of.

Mr. BURKE of South Dakota. But may I not take them up one at a time?

The SPEAKER. Absolutely; but the conference is not asked until the amendments are disposed of.

Mr. BURKE of South Dakota. Then I call up amendment No. 48.

The SPEAKER. The Clerk will report the amendment to which the gentleman refers.

The Clerk read as follows:

Amendment No. 48, page 77, after line 3, insert:

"Any licensed trader in the Standing Rock Indian Agency of North and South Dakota, who has any claim against any Indian of said agency for goods sold to such Indian may file an itemized statement of said claim with the Indian superintendent. Said superintendent shall forthwith notify said Indian in writing of the filing of said claim and request him to appear within a reasonable time thereafter, to be fixed in said notice, and present any objections he may have to the payment thereof, or any offset or any counterclaim thereto.

"If said Indian appears and contests said claim, or any item therein, the said superintendent shall notify the said trader and fix a time for the settlement of the account between the parties thereto, and shall on a hearing thereof use his efforts to secure an agreement as to the amount due between the said parties. If the said Indian shall not appear within the time specified in the notice, the superintendent shall call in the said trader and carefully investigate every item of said account and determine the amount due thereon. Any account so settled by the superintendent or any such account admitted by the Indian shall be and remain an account stated between the parties thereto.

"That out of any moneys that shall thereafter become due to said Indian, by reason of any annuity or other indebtedness, from the Government of the United States, or for property sold by or on account of such Indian, there shall be paid by the superintendent to such trader at least 25 per cent of the money which would be due such Indian and 25 per cent of any money that may thereafter become due to such Indian until the account stated shall have been paid. And where the amount due said Indian shall be sufficient, in the judgment of said superintendent, to pay a greater amount of said indebtedness, still leaving said Indian sufficient for his ordinary needs, such superintendent shall use his influence to secure the payment of the whole or a greater proportion of said account: *Provided*, That such Indian may at any time appear and contest any item in the said account which he has not proved."

Mr. BURKE of South Dakota. Mr. Speaker—

The SPEAKER. For what purpose does the gentleman rise?

Mr. BURKE of South Dakota. For the purpose of discussing this amendment and the motion I make that the House further insist on the disagreement to the Senate amendment No. 48.

Mr. MANN. Mr. Speaker, I move that the House concur in the Senate amendment.

Mr. CARLIN. Mr. Speaker—

Mr. HANNA. Mr. Speaker—

The SPEAKER. For what purpose does the gentleman from North Dakota rise?

Mr. HANNA. Mr. Speaker, I was going to make the same motion that was made by the gentleman from Illinois—to recede and concur.

Mr. MANN. Then, Mr. Speaker, I will withdraw my motion, so that the gentleman from North Dakota may make the motion.

Mr. HANNA. Then, Mr. Speaker, I move to recede and concur in the Senate amendment.

The SPEAKER. The gentleman from North Dakota moves that the House do recede from its disagreement to the Senate amendments and concur in the same. That is a preferential motion to the motion of the gentleman from South Dakota, because that motion would bring the two bodies to an agreement.

Mr. CARLIN. Mr. Speaker—

The SPEAKER. For what purpose does the gentleman from Virginia rise?

Mr. CARLIN. For the purpose of moving a substitute to that motion.

The SPEAKER. But the other motions are preferential motions.

Mr. CARLIN. My motion is to postpone the consideration of this entire conference report until the next legislative day.

Mr. MANN. Mr. Speaker, I make the point of order that that motion is not in order.

Mr. BURKE of South Dakota. That motion is not in order.



The SPEAKER. The Chair thinks that motion is not in order—is inclined to think so.

Mr. CARLIN. If we postpone it to a day certain, or the next legislative day?

Mr. MANN. The gentleman has not the floor.

The SPEAKER. The gentleman from Virginia said he desires to move a substitute.

Mr. MANN. The gentleman was not recognized for any other purpose.

Mr. CARLIN. I now desire to make a privileged motion.

The SPEAKER. The gentleman will state what his privileged motion is.

Mr. CARLIN. The motion is to postpone the consideration of this conference report until the next regular legislative day.

Mr. MANN. Mr. Speaker, I make the point of order that the gentleman can not take the gentleman from South Dakota from the floor.

The SPEAKER. The conference report has been agreed to. There are amendments pending outside of the report and they are before the House.

Mr. CARLIN. And I desire to postpone their consideration until the next legislative day.

Mr. MANN. I make the point of order, Mr. Speaker, that the gentleman can not take the gentleman from South Dakota off the floor for that purpose.

Mr. CARLIN. The gentleman from South Dakota has never been on the floor.

Mr. BURKE of South Dakota. The gentleman from South Dakota still has the floor.

The SPEAKER. The Chair has no doubt as to the priority of these motions. The gentleman from South Dakota [Mr. BURKE] was compelled to yield, having made his motion to further insist on the disagreement to the Senate amendment, to the preferential motion made by the gentleman from North Dakota [Mr. HANNA] that the House recede and concur. Both of those motions are preferential, but the one made by the gentleman from North Dakota was of the highest preference. The gentleman from Virginia now rises to another motion which he claims to be a preferential motion, namely, to postpone the consideration of this amendment.

Mr. CARLIN. Of all amendments.

The SPEAKER. Until the next legislative day. Then the gentleman from Illinois [Mr. MANN] makes the point of order that this motion is not such a preferential motion as may intervene between the motion of the gentleman from South Dakota and his right to the floor upon the same, or rather the right to the floor of the gentleman from South Dakota on the motion of the gentleman from North Dakota, because under the practice he would be entitled to the floor. The Chair will hear the gentleman from Illinois upon his point of order. The Chair desires, again, to direct the attention of the gentleman from Illinois to the situation. While the gentleman from South Dakota was recognized to make a privileged motion the gentleman from North Dakota made a preferential motion of a higher character. It is upon this matter the Chair would be glad to hear the gentleman from Illinois; that is, whether or not the motion made by the gentleman from Virginia [Mr. CARLIN] may intervene before the motion of the gentleman from North Dakota. The Chair will hear the gentleman from Illinois.

Mr. MANN. Mr. Speaker, the situation is this: The House passed the Indian appropriation bill. The Senate passed the bill with certain amendments. It comes to the House, the amendments are disagreed to in the House, and a conference is asked for, and the matter goes to conference. It now comes before the House on the conference report with certain items disagreed to.

The conference report has been agreed to as far as it goes, and thereupon the gentleman in charge of the bill moves that the House further insist upon its disagreement to Senate amendment numbered 48, and the gentleman from North Dakota moves that the House recede and concur in the Senate amendments, and the gentleman from Virginia claims the right to the floor for the purpose of moving a postponement to a day certain or a day uncertain—I do not know which it will be. There are only one or two motions in order. It has always been ruled that those motions which tend to bring the two Houses together shall be first in order. Now, the motion of the gentleman from North Dakota is the motion that brings the two Houses closest into union if it be agreed to. It seems to me it ought to take preference over the motion to postpone, which motion, of course, will be subject to debate, I suppose.

Mr. CARLIN. The gentleman can go on with his suppositions.

Mr. MANN. Now, it is perfectly certain that if the gentleman from Virginia had desired to make the motion for the previous question, he could not take the gentleman from South

Dakota off the floor for that purpose, but the motion for the previous question takes precedence of the motion to postpone; and if the gentleman from Virginia can not take the gentleman from South Dakota off the floor for the purpose of offering the motion demanding the previous question, how can he do it for the purpose of permitting a postponement of the matter? The rule is—

When a question is under debate, no motion shall be received but to adjourn, to lay on the table, for the previous question (which motions shall be decided without debate), to postpone to a day certain, to refer, or to amend, or postpone indefinitely, which several motions shall have precedence in the foregoing order.

Now, the motion for the previous question has precedence of the motion to postpone. It has been ruled time and time again that the gentleman in charge of a bill can not be taken off the floor during the hour to which he is entitled to recognition, for some one else to move the previous question. A moment ago when the gentleman from South Dakota had exhausted his hour the Chair recognized the gentleman from Tennessee to move the previous question, but would not recognize the gentleman from Tennessee or any other gentleman during the hour which the gentleman from South Dakota had under his right to be recognized.

The SPEAKER. The Chair will hear briefly the gentleman from Virginia.

Mr. CARLIN. Mr. Speaker, I do not care to be heard. I think it is a perfectly plain proposition, and I am ready for the Chair to rule.

The SPEAKER. Paragraph 4 of Rule XVI, page 383, of the Manual, says:

When a question is under debate no motion shall be received but to adjourn, to lay on the table, for the previous question (which motions shall be decided without debate), to postpone to a day certain, to refer, or to amend, or postpone indefinitely.

Now, this question is under debate. Two preferential motions have been made, one by the gentleman from South Dakota and one by the gentleman from North Dakota. Now the gentleman from Virginia makes another motion, applying to a different class of preference, because the other two motions were motions to bring the House to a disposition of these particular amendments, and may be said to be incidental to these amendments, but the motion of the gentleman from Virginia is to postpone to the next legislative day, and has relation not alone to this bill but to the general order of business in the House. He might have moved, if you choose, in the same order of motion, to postpone indefinitely or to lay on the table.

Now, on the question of laying on the table, which motion at this stage is of similar dignity, the Chair finds this precedent, which the Clerk will read, namely, section 5393, of volume 5 of Hinds' Precedents, where the whole question is so tersely and plainly put in the precedent that the Chair desires the Clerk to read it.

The Clerk read as follows:

On April 23, 1897, Mr. Richard P. Bland, of Missouri, appealed from a decision of the chair and announced his purpose to debate the appeal. Mr. Dingley, being recognized, moved to lay the appeal on the table. Mr. James D. Richardson, of Tennessee, made the point of order that the gentleman from Missouri, Mr. Bland, who had taken the appeal, was entitled to the floor to debate it, and could not be prevented by the motion to lay the appeal on the table.

The Speaker, in overruling the point of order, said: The appeal is debatable, unless the House decides otherwise. \* \* \* The gentleman from Missouri was only on the floor to submit his appeal. Whether he should be recognized afterwards as having the floor to address the House involves a different recognition. \* \* \* A privileged motion could come in between the two recognitions. \* \* \* The House may, if it chooses, vote down the motion to lay the appeal on the table. If the House does not wish to hear debate, it need not hear it. \* \* \* The House is not at the mercy of the individual member, or any member whatever. The vote of the House must decide the question. \* \* \* If the House desires to hear the gentleman, it will vote down the proposition to lay the appeal on the table. If it does not desire to hear him \* \* \* it will vote the other way.

The question being taken on Mr. Dingley's motion; there were—ayes 86, nays 75, present 23; so the appeal was laid on the table.

The SPEAKER. The Chair thinks the precedent is in point, and therefore overrules the point of order.

Mr. MANN. Mr. Speaker, I rise to make a privileged motion. I move to lay on the table the motion of the gentleman from Virginia [Mr. CARLIN].

Mr. CARLIN. Mr. Speaker, I make the point of order that the motion is not in order.

The SPEAKER. The Chair will hear the gentleman from Virginia [Mr. CARLIN].

Mr. CARLIN. It is a dilatory motion.

Mr. BURKE of South Dakota. I would like to make a parliamentary motion.

Mr. CARLIN. I make the point of order that the motion is dilatory.

The SPEAKER. It occurs to the Chair there is no evidence up to this point of delay.

Mr. BURKE of South Dakota. I desire to submit a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BURKE of South Dakota. I would like to inquire, Mr. Speaker, if the motion of the gentleman from Illinois should prevail, what would become of the Senate amendment.

The SPEAKER. The Chair is inclined to think if the motion of the gentleman from Virginia [Mr. CARLIN] should prevail it would carry the whole bill over to the next legislative day.

Mr. BURKE of South Dakota. Yes; but, Mr. Speaker, the motion of the gentleman from Illinois, if that motion is entertained, is to lay the motion of the gentleman from Virginia [Mr. CARLIN] on the table. Now, if that motion prevails, what becomes of the amendment?

The SPEAKER. The Chair, upon the point of order as to the motion of the gentleman from Illinois, will have read the following precedent.

Mr. MANN. Mr. Speaker, I would like to be heard on the point of order, if the gentleman from Virginia [Mr. CARLIN] makes the point of order upon my motion.

Mr. LANGLEY. The Chair has already decided the point of order.

The SPEAKER. The Chair will hear the gentleman from Illinois [Mr. MANN] if he desires to be heard further.

Mr. MANN. I prefer to be heard.

Mr. SIMS. Let us hear that read first.

Mr. CARLIN. This confirms my point of order that the motion is dilatory.

The SPEAKER. At this stage that is overruled.

Mr. MANN. The rule which has already been read provides:

When a question is under debate, no motion shall be received but to adjourn, to lay on the table, for the previous question (which motions shall be decided without debate), to postpone to a day certain, to refer, or to amend, or to postpone indefinitely; which several motions shall have precedence in the foregoing order.

Now, in that order, the motion to lay on the table follows the motion to adjourn, and there are a number of motions ahead of the motion to postpone to a day certain. Under the ruling of the Chair, the motion for the previous question being prior to a motion to postpone indefinitely, it would be in order for me to move the previous question as well as a motion to lay on the table, or a motion to adjourn, ahead of the motion to postpone to a day certain.

I am not certain whether the motion to postpone to the next legislative day is a motion to postpone to a day certain, or to postpone to a day indefinitely, because the Lord only knows—nobody in this House knows—when the next legislative day occurs. Doubtless it may occur to-morrow, but it is uncertain.

Mr. HUGHES of New Jersey. Is not that sufficiently definite?

Mr. MANN. I say that the gentleman's motion to postpone to a day certain is uncertain.

Mr. BARTLETT of Georgia. Mr. Speaker, I rise to a point of order.

The SPEAKER. The gentleman from Georgia will state it.

Mr. BARTLETT of Georgia. I make the point, Mr. Speaker, that the gentleman from Illinois [Mr. MANN] has moved to lay the motion of the gentleman from Virginia [Mr. CARLIN] on the table, and he is now discussing that motion.

The SPEAKER. And the gentleman from Virginia [Mr. CARLIN] makes the point of order that that motion itself is not in order—

Mr. LANGLEY. Because it is dilatory.

Mr. MANN. If the motion of the gentleman from Virginia [Mr. CARLIN] is a motion to postpone indefinitely, then ahead of it comes a motion to postpone to a day certain, or to refer, or to amend. I do not desire, Mr. Speaker, in any way to detain the House beyond what is necessary, but—

The SPEAKER. The Clerk will read the precedent.

The Clerk read as follows:

On March 18, 1910, Mr. JOSEPH H. GAINES, of West Virginia, moved to postpone the pending subject of discussion to the next day.

Mr. OSCAR W. UNDERWOOD, of Alabama, moved to lay on the table the motion to postpone.

The Speaker expressed at first doubt as to whether or not the motion was in order, but decided to admit it.

The SPEAKER. The Clerk will read the note to the precedent.

The Clerk read as follows:

In some cases one privileged motion is not applicable to another. Thus it would undoubtedly not be in order to move to lay on the table a motion to adjourn or for the previous question, as they are not debatable or amendable. But as the motion to postpone is both debatable and amendable, there is an advantage in applying to it a motion to lay on the table.

The SPEAKER. The Chair entertains the motion of the gentleman from Illinois [Mr. MANN] to lay on the table the motion of the gentleman from Virginia [Mr. CARLIN].

Mr. BURKE of South Dakota. Now, Mr. Speaker, I renew my parliamentary inquiry—to know what the effect of that motion would be, if it prevails, on the pending motion?

The SPEAKER. It will not be necessary for the Chair to answer the parliamentary inquiry, except to say that if the House votes to lay the motion of the gentleman from Virginia [Mr. CARLIN] on the table, that would be done. It is safe not to attempt to cross a stream until you come to it.

Mr. FITZGERALD. Mr. Speaker, I desire to inquire whether the motion—

Mr. SHERLEY. Mr. Speaker, I rise to a parliamentary inquiry.

The SPEAKER. The gentleman from Kentucky [Mr. SHERLEY] will state it.

Mr. SHERLEY. The parliamentary inquiry is, Will the motion of the gentleman from Virginia [Mr. CARLIN] carry with it the motion made by the gentleman from North Dakota and that made by the gentleman from South Dakota?

The SPEAKER. Certainly not. They are entirely independent motions.

Mr. FITZGERALD. It would carry both of them. Mr. Speaker, would not the effect of this motion be to carry everything with it that is now pending?

The SPEAKER. The judgment of the Chair is no.

Mr. FITZGERALD. I submit to the Chair that under a universal line of rulings a motion to lay an amendment on the table carries all that with it.

The SPEAKER. That is not on all fours with this motion. A motion to reconsider may lay on the table, and is frequently made, as the gentleman from New York [Mr. FITZGERALD] is aware, without carrying anything with it. The question is on the motion of the gentleman from Illinois [Mr. MANN].

The question was taken; and on a division (demanded by Mr. MANN) there were—ayes 58, noes 66.

Mr. BURKE of South Dakota. Mr. Speaker, I make the point of no quorum present.

The SPEAKER. Evidently a quorum is not present. The Doorkeeper will close the doors and the Sergeant at Arms will notify absent Members. The question is on the motion of the gentleman from Illinois [Mr. MANN] to lay on the table the motion of the gentleman from Virginia [Mr. CARLIN]. As many as favor the motion, as their names are called, will answer "yea;" as many as are opposed will answer "nay;" and those who are present and not voting will answer "present."

The question was taken; and there were—yeas 86, nays 173, answered "present" 7, not voting 118, as follows:

#### YEAS—86.

Anthony	Englebright	Lowden	Scott
Barchfeld	Esch	McCredie	Sheffield
Barnard	Fassett	McGuire, Okla.	Sherley
Boutell	Flsh	McKinney	Simmons
Burke, Pa.	Fitzgerald	Madden	Smith, Iowa
Burke, S. Dak.	Foss	Madison	Snapp
Butler	Gaines	Malby	Stafford
Calderhead	Gardner, N. J.	Mann	Steenerson
Campbell	Garner, Pa.	Martin, S. Dak.	Sterling
Cassidy	Graff	Miller, Kans.	Stevens, Minn.
Cole	Hanna	Miller, Minn.	Sulloway
Cooper, Pa.	Henry, Conn.	Mondell	Swasey
Creager	Howell, N. J.	Morrison	Tawney
Currier	Howell, Utah	Moxley	Taylor, Ohio
Dalzell	Howland	Nelson	Tilson
Dawson	Hull, Iowa	Nye	Volstead
Diekema	Humphrey, Wash.	Palmer, H. W.	Vreeland
Draper	Kendall	Pickett	Wiley
Driscoll, M. E.	Kennedy, Iowa	Pratt	Wilson, Ill.
Durey	Kennedy, Ohio	Rauch	Woods, Iowa
Dwight	Lindbergh	Roberts	
Ellis	Loud	Rodenberg	

#### NAYS—173.

Adamson	Chapman	Garner, Tex.	Jamieson
Aiken	Clark, Mo.	Garrett	Johnson, Ky.
Alexander, Mo.	Clayton	Glass	Johnson, Ohio
Alexander, N. Y.	Cline	Godwin	Johnson, S. C.
Ames	Collier	Goebel	Jones
Anderson	Cooper, Wis.	Gordon	Kahn
Ansberry	Cowles	Graham, Ill.	Kellher
Ashbrook	Cox, Ind.	Hamlin	Kinkaid, Nebr.
Austin	Cox, Ohio	Hammond	Kitchin
Bartholdt	Craig	Hardwick	Knowland
Bartlett, Ga.	Crumpacker	Hardy	Korby
Beall, Tex.	Cullop	Harrison	Kuftermann
Bell, Ga.	Dent	Haugen	Lamb
Bennet, N. Y.	Denver	Havens	Langham
Bingham	Dickinson	Hawley	Langley
Boehne	Dickson, Miss.	Hay	Latta
Borland	Dies	Hayes	Law
Brantley	Douglas	Heffin	Lawrence
Broussard	Driscoll, D. A.	Helm	Lee
Burgess	Edwards, Ga.	Henry, Tex.	Legare
Burleson	Edwards, Ky.	Higgins	Lever
Burnett	Ellerbe	Hitchcock	Livingston
Byrd	Elvins	Hobson	Lloyd
Byrns	Estopinal	Hollingsworth	McHenry
Calder	Ferris	Houston	McKinlay, Cal.
Candler	Finley	Hubbard, Iowa	McLachlan, Cal.
Cantrill	Flood, Va.	Hughes, Ga.	McLaughlin, Mich.
Carlin	Floyd, Ark.	Hughes, N. J.	Macon
Carter	Focht	Hull, Tenn.	Maguire, Nebr.
Cary	Foster, Ill.	Humphreys, Miss.	Martin, Colo.



Massey	Page	Saunders	Taylor, Ala.
Maynard	Parsons	Shackelford	Thomas, Ky.
Mays	Pearre	Sheppard	Thomas, N. C.
Mitchell	Peters	Sherwood	Tou Velle
Moon, Tenn.	Poindexter	Sims	Townsend
Morgan, Mo.	Prince	Sisson	Turnbull
Morgan, Okla.	Pujo	Slemp	Washburn
Morse	Ralney	Small	Watkins
Moss	Randell, Tex.	Smith, Tex.	Webb
Needham	Richardson	Sparkman	Wickliffe
Nicholls	Robinson	Stanley	Woodyard
O'Connell	Rothermel	Stephens, Tex.	
Oldfield	Rucker, Colo.	Sulzer	
Padgett	Rucker, Mo.	Talbott	

## ANSWERED "PRESENT"—7.

Goulden	Kopp	Pou	Young, N. Y.
Hubbard, W. Va.	McCall	Taylor, Colo.	

## NOT VOTING—118.

Adair	Foster, Vt.	Kinhead, N. J.	Pray
Allen	Fowler	Knapp	Ransdell, La.
Andrus	Fuller	Kronmiller	Reeder
Barnley	Gallagher	Lafean	Reld
Barnhart	Gardner, Mass.	Lenroot	Rhinock
Bartlett, Nev.	Gardner, Mich.	Lindsay	Riordan
Bates	Gill, Md.	Lively	Roddenbery
Bennett, Ky.	Gill, Mo.	Longworth	Sabath
Boohar	Gillespie	Loudenslager	Sharp
Bowers	Gillett	Lundin	Slayden
Bradley	Goldfogle	McCreary	Smith, Cal.
Burleigh	Good	McDermott	Smith, Mich.
Capron	Graham, Pa.	McKinley, Ill.	Southwick
Clark, Fla.	Grant	McMorran	Sperry
Cocks, N. Y.	Greene	Millington	Spight
Conry	Gregg	Moon, Pa.	Sturgiss
Coudrey	Griest	Moore, Pa.	Thistlewood
Covington	Guernsey	Moore, Tex.	Thomas, Ohio
Cravens	Hamer	Morehead	Underwood
Crow	Hamill	Mudd	Wallace
Davidson	Hamilton	Murdock	Wanger
Davis	Heald	Murphy	Weeks
Denby	Hill	Norris	Weisse
Dixon, Ind.	Hinshaw	Olcott	Wheeler
Dodds	Howard	Olmsted	Willett
Dupre	Huff	Palmer, A. M.	Wilson, Pa.
Fairchild	Hughes, W. Va.	Parker	Wood, N. J.
Foelker	James	Patterson	Young, Mich.
Fordney	Joyce	Payne	
Fornes	Kelfer	Plumley	

So the motion was rejected.

The Clerk announced the following additional pairs:

Until further notice:

Mr. OLCOTT with Mr. GALLAGHER.  
 Mr. DENBY with Mr. CONY.  
 Mr. SOUTHWICK with Mr. BOWERS.  
 Mr. GILLETT with Mr. UNDERWOOD.  
 Mr. GARDNER of Massachusetts with Mr. TAYLOR of Colorado.  
 Mr. MCKINLEY of Illinois with Mr. RODDENBERY.  
 Mr. LAFEAN with Mr. SPIGHT.  
 Mr. KNAPP with Mr. WALLACE.  
 Mr. GRIEST with Mr. GILLESPIE.  
 Mr. FOSTER of Vermont with Mr. DIXON of Indiana.  
 Mr. FORDNEY with Mr. BARTLETT of Nevada.  
 Mr. MCMORRAN with Mr. PUJO.

From to-day until Monday noon:

Mr. MOORE of Pennsylvania with Mr. GREGG.

On this vote:

Mr. WANGER with Mr. KOPP.

Mr. CARLIN. Mr. Speaker, I demand the previous question.

Mr. HUGHES of New Jersey. I move that further proceedings under the call be dispensed with.

The SPEAKER. There will be no rights lost that are due to any Member under the rules of the House. A quorum is present, and the doorkeepers will open the doors.

Mr. CARLIN. Mr. Speaker, I demand the previous question on my motion.

Mr. BURKE of South Dakota. I desire to be recognized, Mr. Speaker, for the purpose of debating the motion.

Mr. MANN. Mr. Speaker, I submit—

Mr. CARLIN. I submit that I have the floor. The previous question is not debatable.

Mr. MANN. I submit that the gentleman in charge of the bill is always entitled to the floor on a motion, although the motion may have preferential rights.

Mr. BURKE of South Dakota. And the motion is debatable.

Mr. MANN. Mr. Speaker, on page 366 of the Manual, toward the bottom of the page, in reference to recognition, it says—

But a Member may not, by offering a debatable motion of higher privilege than the pending motion, deprive the Member in charge of the bill of possession of the floor for debate—

referring to precedents in the Parliamentary Precedents. That is a clear statement of the situation. Now, on page 367 is a statement of the case when the right of recognition passes from the Member in charge of the bill to the opposition. That is:

When an essential motion made by a Member in charge of the bill is decided adversely, the right to prior recognition passes to the Mem-

ber leading the opposition to the motion. The control of the measure passes under this principle when the House disagrees to the recommendation of the committee reporting the bill; when the Committee of the Whole reports a bill adversely; and, in most cases, when the House disagrees to a conference report.

Now, there has been no essential motion made by the gentleman in charge of the bill which has been defeated or which has been voted upon. The gentleman in charge of the bill made a motion that the House agree to the conference report, and that was agreed to. Thereupon the gentleman in charge of the bill made a motion about a pending amendment which was in disagreement; that motion has not yet been presented to the House for consideration, and if it had, even, on that question, on the next amendment the gentleman in charge of the bill would be entitled to recognition.

Now, there comes, intervening between the agreement to the conference report and the motion of the gentleman on the next amendment, a preferential motion which is debatable, made by the gentleman from Virginia. But the Manual expressly states that that does not take the gentleman from South Dakota off the floor for controlling the time for debate. For instance, suppose it did, and I was endeavoring to do what the gentleman from Virginia is endeavoring to do—delay the House and consume time—and I had made a preferential motion to the motion of the gentleman from Virginia and demanded the floor for an hour to discuss that motion. Suppose the gentleman from Virginia, now, in his efforts to consume the time of the House consumes the hour, whoever obtained the floor is entitled to discuss the question, keeping the gentleman in charge of the bill from the floor and keeping the matter from coming to a vote. The Chair can readily see what a power to filibuster that would be, because the motion to postpone is always in order under the ruling of the Chair.

Mr. CARLIN. Will the gentleman yield for a moment?

Mr. MANN. For an hour, if the gentleman desires.

Mr. CARLIN. The gentleman is so anxious not to consume the time of the House; I suppose he would not really do that.

Mr. MANN. I am anxious not to consume the time of the House unnecessarily.

Mr. CARLIN. Does not the gentleman know that the chairman of this committee yielded the floor to the gentleman from North Dakota [Mr. HANNA] to make a privileged motion, and therefore surrendered his right to the floor?

Mr. MANN. The gentleman is mistaken. The gentleman from South Dakota made a motion, and the gentleman from North Dakota offered a preferential motion.

Mr. CARLIN. The record will show that he has yielded the floor for that motion to be made.

Mr. MANN. That is all nonsense.

Mr. CARLIN. It may be nonsense; but it is a fact.

Mr. MANN. The gentleman from Virginia takes the gentleman off the floor to make his motion. In either case the gentleman from South Dakota is entitled to the floor. It is a similar case to this. If the gentleman from South Dakota makes a motion to insist upon the disagreement of the House to the Senate amendment and the gentleman from North Dakota makes a preferential motion to recede and concur, who is entitled to the floor, then? I have heard it ruled here 40 times or more that the gentleman in charge of the bill was entitled to the floor, although there was a preferential motion made to recede and concur, when the motion of the gentleman in charge of the bill was to insist on the disagreement.

Mr. CARLIN. If the gentleman's position be correct—

Mr. MANN. Which it is.

Mr. CARLIN. Then the motion to lay on the table could not have been entertained and ought not to have been voted upon.

Mr. MANN. That is a piece of logic which I have not yet appreciated.

Mr. CARLIN. That took the gentleman off the floor, did it not?

Mr. SIMS. Mr. Speaker, will the gentleman yield?

Mr. MANN. I yield to the gentleman from Tennessee.

Mr. SIMS. The gentleman has intimated that there is a filibuster going on on this side to consume time. [Laughter.] Let me ask the gentleman a straight question, or rather state the position so that there will be no mistake about it. It is well known, Mr. Speaker, by the gentleman from Illinois that this is the last day on which any private claim can be considered, that is reported by either the Committee on Claims or the Committee on War Claims. Now, it is very evident to every Member of this House—

Mr. SHERLEY. Mr. Speaker, I demand the regular order.

Mr. SIMS. Mr. Speaker, I am in order. It is very evident to every Member of this House that all of this time is being consumed—

Mr. SHERLEY. Mr. Speaker, I demand the regular order.

Mr. SIMS. To keep the other matters I have referred to from being considered, and further, the gentleman from Kentucky is not in order in making the point of order, or it may be that it is because the gentleman does not want the country to know the facts.

Mr. MANN. The gentleman is killing time.

Mr. LANGLEY. Why did not the gentleman say that sooner?

Mr. SIMS. We are not killing time.

The SPEAKER. What is the point of order the gentleman from Kentucky makes?

Mr. SHERLEY. There is no point of order now, because the violation of the rule has ceased.

The SPEAKER. The Chair is prepared to rule. The Chair desires to call attention to the general proposition—that a Member may not, by offering a motion of higher privilege than the pending motion, deprive a member of the committee in charge of the bill of the floor.

That arises from a series of rulings relating entirely to motions inhering in the particular bill, to enable the House, as promptly as possible, to deal with Senate amendments to House bills. Now, the ruling has been uniform that a Member can not take another in charge of a conference report off the floor by making a preferential motion touching the amendments of the other body. But this motion belongs to an entirely different class of motions; that is, motions that affect the general business of the House. It ought to be in the power of the House to consider the Senate amendments to a conference report, and it ought to be in the power of a majority of the House to postpone their consideration with as little delay as practicable under the rules, and the construction given to the rules by the Chair and the precedents heretofore made. Now, the gentleman from Virginia makes this preferential motion, and is the proposer and mover of the motion that this House shall not consider these amendments, if it be agreed to to-day, but on the next legislative day. That in no way affects the manner of dealing with the Senate amendments to the bill. Therefore if the gentleman in charge of the conference report should be entitled to the floor, he would be entitled to the floor for an hour touching a motion that does not affect the disposition of the Senate amendments to the House bill, but which does tend to determine, and does determine, or give the majority of the House the power to determine, whether they will consider it to-day or to-morrow. The Chair therefore recognizes the gentleman from Virginia to move the previous question on the motion to postpone.

Mr. CARLIN. Mr. Speaker, I move the previous question on the motion to postpone.

The question was taken, and the Chair announced that the Chair was in doubt.

Mr. MANN. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The Chair will test. Upon this vote the ayes are 115 and the noes are 41. The point of not quorum being made—

Mr. MANN. Mr. Speaker, I made the point of order that there was no quorum present.

The SPEAKER. The vote, as well as the observation of the Chair, shows that a quorum is not present.

Mr. RUCKER of Missouri. Mr. Speaker, a parliamentary inquiry. Is it proper for the gentleman just to keep up this performance of calling for no quorum time after time and—

Mr. MANN. It is not only proper, but you will have to keep a quorum here.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members; those in favor of ordering the previous question will, when their names are called, answer "aye," those opposed "no," those present and not voting will answer "present," and the Clerk will call the roll. One moment. The Chair states in answer to the parliamentary inquiry of the gentleman that a quorum, under the Constitution, must be present or business can not proceed.

Mr. RUCKER of Missouri. Mr. Speaker, another parliamentary inquiry.

The SPEAKER. The Clerk will call the roll.

The question was taken; and there were—yeas 172, nays 80, answered "present" 4, not voting 128, as follows:

## YEAS—172.

Adair	Beall, Tex.	Carlín	Cox, Ind.
Adamson	Bell, Ga.	Carter	Cox, Ohio
Alken	Bennet, N. Y.	Chapman	Craig
Alexander, Mo.	Borland	Clark, Mo.	Creager
Alexander, N. Y.	Burke, Pa.	Clayton	Cullop
Anderson	Burleson	Cline	Dent
Ashbrook	Burnett	Cole	Denver
Austin	Byrns	Collier	Dickinson
Barnhart	Candler	Cooper, Wis.	Dickson, Miss.
Bartlett, Ga.	Cantrill	Cowles	Diekema

Dies	Heflin	Maguire, Nebr.	Rucker, Colo.
Dodds	Helm	Malby	Rucker, Mo.
Driscoll, D. A.	Henry, Tex.	Martin, Colo.	Shackelford
Driscoll, M. E.	Hitchcock	Martin, S. Dak.	Sheppard
Edwards, Ga.	Hollingsworth	Maynard	Sherley
Edwards, Ky.	Houston	Mays	Sherwood
Ellerbe	Hughes, Ga.	Mitchell	Sims
Elvins	Hughes, N. J.	Moon, Tenn.	Sisson
Estopinal	Hull, Tenn.	Morgan, Mo.	Slomp
Ferris	Jamieson	Morgan, Okla.	Small
Finley	Johnson, Ky.	Morrison	Smith, Tex.
Fitzgerald	Johnson, Ohio	Morse	Sparkman
Flood, Va.	Johnson, S. C.	Moss	Spight
Floyd, Ark.	Jones	Nicholls	Stanley
Foster, Ill.	Kelher	O'Connell	Stephens, Tex.
Gardner, Mass.	Kinkaid, Nebr.	Olcott	Sterling
Garner, Pa.	Kitchin	Oldfield	Sulloway
Garner, Tex.	Knowland	Padgett	Talbot
Garrett	Korbly	Page	Taylor, Ala.
Glass	Lamb	Parsons	Taylor, Colo.
Godwin	Langham	Pearre	Thistlewood
Good	Langley	Peters	Thomas, Ky.
Gordon	Latta	Pickett	Thomas, N. C.
Graham, Ill.	Law	Plumley	Tou Velle
Grant	Lee	Prince	Townsend
Hamlin	Legare	Pujo	Turnbull
Hammond	Lever	Rainey	Underwood
Hardy	Livingston	Randell, Tex.	Wallace
Harrison	Lloyd	Rauch	Washburn
Havens	McHenry	Richardson	Watkins
Hawley	McLachlan, Cal.	Robinson	Webb
Hay	McLaughlin, Mich.	Rothermel	Wickliffe
Hayes	Macon		Young, Mich.

## NAYS—80.

Ames	Englebright	Keller	Palmer, H. W.
Andrus	Fassett	Kendall	Parker
Anthony	Fish	Kennedy, Iowa	Pratt
Barchfeld	Fordney	Küstermann	Pray
Barnard	Foss	Lawrence	Reeder
Bingham	Fuller	Lindbergh	Roberts
Boutell	Gardner, N. J.	Longworth	Smith, Iowa
Burke, S. Dak.	Goebel	Lowden	Snapp
Butler	Graff	McGuire, Okla.	Stafford
Campbell	Greene	McKinley, Ill.	Steenerson
Cassidy	Guernsey	McKinney	Stevens, Minn.
Cocks, N. Y.	Hanna	Madden	Swasey
Cooper, Pa.	Henry, Conn.	Madison	Taylor, Ohio
Crumpacker	Hill	Mann	Thomas, Ohio
Currier	Hinshaw	Miller, Minn.	Tilson
Dalzell	Howell, N. J.	Moxley	Volstead
Dawson	Howell, Utah	Needham	Vreeland
Draper	Howland	Nelson	Wheeler
Dwight	Hull, Iowa	Norris	Wiley
Ellis	Humphrey, Wash.	Nye	Woods, Iowa

## ANSWERED "PRESENT"—4.

Goulden	Hubbard, W. Va.	Kopp	McCall
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## NOT VOTING—128.

Allen	Durey	James	Payne
Ansberry	Esch	Joyce	Polndexter
Barclay	Fairchild	Kahn	Pou
Bartholdt	Focht	Kennedy, Ohio	Ransdell, La.
Bartlett, Nev.	Foelker	Kinkaid, N. J.	Reid
Bates	Fornes	Knapp	Rhinock
Bennett, Ky.	Foster, Vt.	Kronmiller	Riordan
Boehne	Fowler	Lafean	Roddenberry
Booher	Gaines	Lenroot	Rodenberg
Bowers	Gallagher	Lindsay	Sabath
Bradley	Gardner, Mich.	Lively	Saunders
Brantley	Gill, Md.	Loud	Scott
Broussard	Gill, Mo.	Loudenslager	Sharp
Burgess	Gillespie	Lundin	Sheffield
Burleigh	Gillet	McCready	Simmons
Byrd	Goldfogle	McCreedy	Slayden
Calder	Graham, Pa.	McDermott	Smith, Cal.
Calderhead	Gregg	McKinlay, Cal.	Smith, Mich.
Capron	Griest	McMorran	Southwick
Cary	Hammer	Miller, Kans.	Sperry
Clark, Fla.	Hamill	Millington	Sturgiss
Conry	Hamilton	Mondell	Sulzer
Coudrey	Hardwick	Moon, Pa.	Tawney
Covington	Haugen	Moore, Pa.	Wanger
Cravens	Heald	Moore, Tex.	Weeks
Crow	Higgins	Morehead	Wells
Davidson	Hobson	Mudd	Willett
Davis	Howard	Murdock	Wilson, Ill.
Denby	Hubbard, Iowa	Murphy	Wilson, Pa.
Dixon, Ind.	Huff	Olmsted	Wood, N. J.
Douglas	Hughes, W. Va.	Palmer, A. M.	Woodyard
Dupre	Humphreys, Miss.	Patterson	Young, N. Y.

So the previous question was ordered.

The Clerk announced the following additional pairs:

On this vote:

Mr. WANGER with Mr. KOPP.

Until further notice:

Mr. LOUD with Mr. RIORDAN.

Mr. DOUGLAS with Mr. RODDENBERRY.

Mr. BARTHOLDT with Mr. ANSBERRY.

Mr. CALDERHEAD with Mr. BURGESS.

Mr. CARY with Mr. CLARK of Florida.

Mr. DENBY with Mr. HUMPHREYS of Mississippi.

Mr. FOCHT with Mr. SULZER.

Mr. HIGGINS with Mr. BRANTLEY.

Mr. KAHN with Mr. BOEHNE.

Mr. McMORRAN with Mr. BYRD.

Mr. RODENBERG with Mr. BROUSSARD.

Mr. SIMMONS with Mr. HOBSON.



Mr. TAWNEY with Mr. GALLAGHER.

Mr. WEEKS with Mr. SAUNDERS.

For the session:

Mr. MOREHEAD with Mr. POU.

Mr. WOODYARD with Mr. HARDWICK.

The SPEAKER. Upon this vote the ayes are 172, the noes 80, present 4—a quorum. The Doorkeeper will open the doors; the ayes have it, and the previous question is ordered.

Mr. BURKE of South Dakota. Mr. Speaker, I desire to have the motion reported.

The SPEAKER. The motion is to postpone the consideration of the Senate amendment until the next legislative day.

Mr. BURKE of South Dakota. May the motion be reported?

Mr. CLAYTON. It is not debatable, is it, Mr. Speaker?

The SPEAKER. The previous question is ordered. There is nothing in order now except to vote on the motion, and the motion is to postpone the consideration of the Senate amendments to the pending bill until the next legislative day.

Mr. MANN. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. MANN. If there should be no other legislative day than this at this session, would it be possible to reconsider the vote so as to get at the Indian appropriation bill?

The SPEAKER. The Chair supposes a motion to reconsider might be entered to-day or to-morrow.

The question is on the motion of the gentleman from Virginia [Mr. CARLIN].

The question was taken, and the Chair announced that the ayes seemed to have it.

Mr. MANN. Mr. Speaker, I demand a division.

The House divided; and there were—ayes 150, noes 60.

Mr. MANN. Mr. Speaker, I ask for tellers.

Mr. LIVINGSTON. Mr. Speaker, I make the point of order that the gentleman from Illinois [Mr. MANN] is filibustering and delaying the business of the House.

Mr. MANN. Mr. Speaker, I demand tellers.

Mr. LIVINGSTON. I make the point of order.

The SPEAKER. The Chair thinks the Constitution does not say anything about providing for tellers. The Chair will ask the gentleman from Illinois if he doubts the count, or is the proposition dilatory?

Mr. MANN. Oh, Mr. Speaker, I am in earnest about this.

The SPEAKER. The Chair knows that the gentleman is in earnest.

Mr. MANN. I withdraw the demand for tellers, and ask for the yeas and nays.

Mr. LIVINGSTON. And, Mr. Speaker, I make the same point of order.

The SPEAKER. The demand for the yeas and nays is a constitutional privilege that no rule or anything else can dispense with, and has never been ruled as dilatory. The gentleman from Illinois [Mr. MANN] demands the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 173, nays 75, answered "present" 6, not voting 131, as follows:

## YEAS—173.

Adair	Collier	Hamlin	McLachlan, Cal.
Adamson	Cooper, Wis.	Hardy	McLaughlin, Mich.
Alken	Cowles	Harrison	Macon
Alexander, Mo.	Cox, Ind.	Haugen	Madden
Alexander, N. Y.	Cox, Ohio	Havens	Maguire, Nebr.
Ames	Craig	Hay	Mann
Anderson	Cullop	Hayes	Martin, Colo.
Ansberry	Davidson	Heflin	Massey
Ashbrook	Dawson	Helm	Maynard
Austin	Dent	Henry, Tex.	Mays
Barnhart	Denver	Hitchcock	Mitchell
Bartlett, Ga.	Dickinson	Hollingsworth	Moon, Tenn.
Beall, Tex.	Dickson, Miss.	Houston	Morgan, Mo.
Bell, Ga.	Dies	Hubbard, Iowa	Morgan, Okla.
Bennet, N. Y.	Dixon, Ind.	Hughes, Ga.	Morse
Boehne	Driscoll, D. A.	Hughes, N. J.	Moss
Booher	Driscoll, M. E.	Hull, Tenn.	Nicholls
Borland	Edwards, Ga.	Jamieson	O'Connell
Bowers	Edwards, Ky.	Johnson, Ky.	Oldfield
Brantley	Ellerbe	Johnson, Ohio	Padgett
Broussard	Elvins	Johnson, S. C.	Page
Burgess	Estopinal	Jones	Parsons
Burleson	Ferris	Kellher	Pearre
Burnett	Finley	Kinkaid, Nebr.	Peters
Byrd	Flood, Va.	Kitchin	Plumley
Byrns	Floyd, Ark.	Kopp	Prince
Candler	Foster, Ill.	Korbly	Pujo
Cantrill	Gardner, Mass.	Lamb	Rainey
Carlin	Garner, Tex.	Langham	Randell, Tex.
Carter	Garrett	Langley	Richardson
Chapman	Glass	Law	Robinson
Cary	Godwin	Lee	Rothermel
Clark, Fla.	Good	Legare	Rucker, Colo.
Clayton	Gordon	Lively	Rucker, Mo.
Cline	Graham, Ill.	Livinston	Shackelford
Cocks, N. Y.	Grant	Lloyd	Sheppard
Cole	Greene	McHenry	Sherley

Sherwood  
Sims  
Sisson  
Slomp  
Small  
Smith, Tex.  
Spight

Stanley  
Stephens, Tex.  
Sulloway  
Talbot  
Taylor, Ala.  
Thistlewood  
Thomas, Ky.

Thomas, N. C.  
Tou Velle  
Townsend  
Turnbull  
Underwood  
Wallace  
Washburn

Watkins  
Webb  
Weeks  
Wickliffe

## NAYS—75.

Anthony  
Barchfeld  
Barnard  
Burke, Pa.  
Burke, S. Dak.  
Campbell  
Cassidy  
Cooper, Pa.  
Creager  
Crumacker  
Currier  
Dalzell  
Diekema  
Douglas  
Draper  
Dwight  
Ellis  
Englebright  
Esch

Fassett  
Fish  
Fitzgerald  
Fordney  
Foss  
Gardner, N. J.  
Graft  
Hanna  
Hinshaw  
Howell, Utah  
Howland  
Hull, Iowa  
Humphrey, Wash.  
Kelifer  
Kendall  
Kennedy, Iowa  
Küstermann  
Latta  
Lawrence

Longworth  
Lowden  
McGuire, Okla.  
McKinley, Ill.  
McKinney  
Madison  
Malby  
Martin, S. Dak.  
Miller, Minn.  
Morrison  
Moxley  
Needham  
Nelson  
Norris  
Nye  
Olcott  
Palmer, H. W.  
Pratt  
Rau

Reeder  
Roberts  
Rodenberg  
Simmons  
Snapp  
Stafford  
Steenserson  
Sterling  
Stevens, Minn.  
Tawney  
Taylor, Ohio  
Thomas, Ohio  
Tilson  
Volstead  
Wiley  
Wilson, Ill.  
Woods, Iowa

## ANSWERED "PRESENT"—6.

Goulden  
Hubbard, W. Va.

Lindbergh  
McCall

Pickett

Young, N. Y.

## NOT VOTING—131.

Allen  
Andrus  
Bartley  
Bartholdt  
Bartlett, Nev.  
Bates  
Bennett, Ky.  
Bingham  
Boutell  
Bradley  
Burleigh  
Butler  
Calder  
Calderhead  
Capron  
Clark, Mo.  
Conry  
Coudrey  
Covington  
Cravens  
Crow  
Davis  
Denby  
Dodd  
Dupre  
Durey  
Fairchild  
Focht  
Foelker  
Fornes  
Foster, Vt.  
Fowler  
Fuller

Gaines  
Gallagher  
Gardner, Mich.  
Garner, Pa.  
Gill, Md.  
Gill, Mo.  
Gillespie  
Gillett  
Goebel  
Goldfogle  
Graham, Pa.  
Gregg  
Griest  
Guernsey  
Hamer  
Hamill  
Hamilton  
Hammond  
Hardwick  
Hawley  
Heald  
Henry, Conn.  
Higgins  
Hill  
Hobson  
Howard  
Howell, N. J.  
Huff  
Hughes, W. Va.  
Humphreys, Miss.  
James  
Joyce  
Kahn

Kennedy, Ohio  
Kinkead, N. J.  
Knapp  
Knowland  
Kronmiller  
Lafean  
Lenroot  
Lever  
Lindsay  
Loud  
Loudenslager  
Lundin  
McCreary  
McCredie  
McDermott  
McKinlay, Cal.  
McMoran  
Miller, Kans.  
Millington  
Mondell  
Moon, Pa.  
Moore, Pa.  
Moore, Tex.  
Morehead  
Mudd  
Murdock  
Murphy  
Olmsted  
Palmer, A. M.  
Farker  
Fatterson  
Payne  
Poindexter

Pou  
Pray  
Ransdell, La.  
Reid  
Rhinoek  
Riordan  
Rodenbery  
Sabath  
Saunders  
Scott  
Sharp  
Sheffield  
Slayden  
Smith, Cal.  
Smith, Iowa  
Smith, Mich.  
Southwick  
Sparkman  
Sperry  
Sturgiss  
Sulzer  
Swasey  
Taylor, Colo.  
Vreeland  
Wanger  
Weisse  
Wheeler  
Willett  
Wilson, Pa.  
Wood, N. J.  
Woodyard  
Young, Mich.

So the motion was agreed to.

The Clerk announced the following additional pairs:

For the session:

Mr. ANDRUS with Mr. RIORDAN.

Until further notice:

Mr. YOUNG of Michigan with Mr. SPARKMAN.

Mr. BARTHOLDT with Mr. CLARK of Missouri.

Mr. BINGHAM with Mr. GILL of Missouri.

Mr. BUTLER with Mr. GALLAGHER.

Mr. FOSTER of Vermont with Mr. SAUNDERS.

Mr. GILLET with Mr. HAMILL.

Mr. GUERNSEY with Mr. HAMMOND.

Mr. HAWLEY with Mr. HOBSON.

Mr. HILL with Mr. TAYLOR of Colorado.

Mr. HOWELL of New Jersey with Mr. LEVER.

For the balance of day:

Mr. BOUTELL with Mr. RODDENBERRY.

On this vote:

Mr. WANGER with Mr. KOPP.

Mr. MANN. Mr. Speaker, I desire to change my vote.

The SPEAKER. The Clerk will call the gentleman's name.

The name of the gentleman from Illinois [Mr. MANN] was called, and he answered "aye."

The result of the vote was announced as above recorded.

Mr. MANN. Mr. Speaker, I enter a motion to reconsider.

Mr. LIVINGSTON. On that, Mr. Speaker, I make the point of order that it is dilatory.

Mr. CARLIN. Mr. Speaker, I make the point that this is dilatory. I move to lay on the table the motion of the gentleman from Illinois [Mr. MANN].

Mr. MANN. If the gentleman wishes to have the matter disposed of, I will make the motion.

Mr. CARLIN. Let the gentleman from Illinois [Mr. MANN] go ahead and make the motion, unless the gentleman will agree at some time to call it up.

The SPEAKER. And that motion, which the gentleman from Illinois [Mr. MANN] enters, the gentleman from Virginia [Mr. CARLIN] moves to lay on the table, as the Chair understands the gentleman.

Mr. CARLIN. The Chair understood me exactly aright.

The SPEAKER. The question is on the amendment of the gentleman from Virginia [Mr. CARLIN] to lay on the table the motion of the gentleman from Illinois [Mr. MANN] to reconsider the vote.

The question was taken; and on a division (demanded by Mr. MANN) there were—ayes 131, noes 41.

Mr. MANN. Mr. Speaker, I make the point of order that there is not a quorum present.

Mr. SHERLEY. Mr. Speaker, I make the point that that is dilatory.

Mr. BARTLETT of Georgia. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman from Georgia will state it. Mr. BARTLETT of Georgia. Did not the roll call, just completed about six minutes ago, show the presence of a quorum?

The SPEAKER. The Chair will answer yes, it did. What was the point of the gentleman from Kentucky [Mr. SHERLEY]?

Mr. SHERLEY. The point is, Mr. Speaker, that the motion of the gentleman was dilatory.

The SPEAKER. The Chair is of the opinion that the point is well taken.

Mr. MANN. Does the Chair hold that there is a quorum present?

The SPEAKER. The roll call which was just taken showed the presence of 170 yeas and 90 nays—more than a quorum.

Mr. MANN. I call the attention of the Chair to the fact that there was a vote since that time—a standing vote—which showed that practically every Member of the House voted.

SEVERAL MEMBERS. No! No!

Mr. CARLIN. Mr. Speaker, I call the attention of the Chair to the fact that the Chair has already ruled.

The SPEAKER. It occurs to the Chair that the point is well made.

Mr. MANN. Then, Mr. Speaker, I rise to present a privileged conference report under the rule.

The SPEAKER. The Chair will say that on the last vote the yeas have it, and the motion to lay on the table prevails.

For what purpose does the gentleman from Illinois rise?

#### BRIDGES ACROSS CHARLES RIVER, MASS.

Mr. MANN. Mr. Speaker, I submit the following conference report on the bill (H. R. 26150) to authorize the cities of Boston and Cambridge, Mass., to construct drawless bridges across the Charles River between the cities of Cambridge and Boston, in the State of Massachusetts, for printing under the rule.

The conference report (No. 2183) and statement are as follows:

#### CONFERENCE REPORT.

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 26150) to authorize the cities of Boston and Cambridge, Mass., to construct drawless bridges across the Charles River, between the cities of Cambridge and Boston, in the State of Massachusetts, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to section 1 of the bill, and agree to the same with an amendment as follows, to wit: Strike out of the Senate amendment the following:

*“Provided, further, That the State of Massachusetts shall, within a reasonable time after the completion of said bridges, or any of them, by legislative enactment provide for adequate compensation to the owner or owners of wharf property now used as such on said river above any of said bridges, for damages, if any, sustained by said property by reason of interference with access by water to said property now enjoyed, because of the construction of said bridges without a draw.”*

And insert in lieu thereof the following:

*“Provided further, That before the construction of said bridges, or any of them, is begun the State of Massachusetts shall by legislative enactment provide for adequate compensation for the owner, owners, lessee, or lessees of property abutting on said river above any of the said bridges for damages, if any, caused to said property or leasehold interests therein by reason of interference with the access by water to said prop-*

*erty, due to the construction of bridges without draws: Provided further, That said legislative enactment shall provide for the appointment of three commissioners to hear the parties in interest and assess the damages to said property, their decision as to the amount of damages and questions of fact to be final; said commissioners to be appointed by the supreme judicial court of Massachusetts.”*

And the Senate agree to the same.

Also amend the title of the bill by striking out the present title and inserting in lieu thereof as the title of the bill the following: “To authorize the construction of drawless bridges across a certain portion of the Charles River in the State of Massachusetts.”

JAMES R. MANN,  
C. G. WASHBURN,  
W. C. ADAMSON,

*Managers on the part of the House.*

CHAUNCEY M. DEPEW,  
S. H. FILES,  
WM. J. STONE,

*Managers on the part of the Senate.*

#### STATEMENT.

The amendment of the Senate struck out all of section 1 of the bill as it passed the House and inserted a substitute amendment. As agreed to in conference, the following provision in the Senate amendment is stricken out, to wit:

*“Provided further, That the State of Massachusetts shall, within a reasonable time after the completion of said bridges, or any of them, by legislative enactment provide for adequate compensation to the owner or owners of wharf property now used as such on said river above any of said bridges, for damages, if any, sustained by said property by reason of interference with access by water to said property now enjoyed, because of the construction of said bridges without a draw.”*

And in lieu thereof, there is inserted the following provision:

*“Provided further, That before the construction of said bridges or any of them is begun, the State of Massachusetts shall by legislative enactment provide for adequate compensation for the owner, owners, lessee, or lessees of property abutting on said river above any of the said bridges, for damages, if any, caused to said property or leasehold interests therein by reason of interference with the access by water to said property, due to the construction of bridges without draws: Provided further, That said legislative enactment shall provide for the appointment of three commissioners to hear the parties in interest and assess the damages to said property; their decision as to the amount of damages and questions of fact to be final; said commissioners to be appointed by the supreme judicial court of Massachusetts.”*

The conference report also provides, in order to make the title agree with the Senate amendment as amended, to strike out the present title of the bill and insert in lieu thereof the following as the title: “A bill to authorize the construction of drawless bridges across a certain portion of the Charles River in the State of Massachusetts.”

JAMES R. MANN,  
C. G. WASHBURN,  
W. C. ADAMSON,

*Managers on the part of the House.*

#### BRITISH GOVERNMENT AND AMERICAN EXPRESS CO. CONTRACT.

Mr. MANN. Mr. Speaker, I present herewith a privileged report from the Committee on Interstate and Foreign Commerce on House resolution 962.

The SPEAKER. The Clerk will read the resolution.

The Clerk read as follows:

House resolution 962.

*Resolved, That the Secretary of Commerce and Labor be, and he is hereby, requested to send to the House of Representatives a copy of the contract (on file in the office of the Interstate Commerce Commission) between the British Government and the American Express Co., relative to the delivery of parcels and packages at post offices in the United States, elsewhere than in the State of New York, for a flat rate.*

Mr. THOMAS of North Carolina. Mr. Speaker, I raise the question of consideration.

The SPEAKER. The gentleman from North Carolina [Mr. THOMAS] raises the question of consideration on this report. The question is, Will the House consider the report?

The question was taken; and on a division (demanded by Mr. MANN) there were—ayes 60, noes 153.

Mr. MANN. I ask for the yeas and nays, Mr. Speaker.

The yeas and nays were ordered.



The question was taken; and there were—yeas 74, nays 178, answered "present" 6, not voting 126, as follows:

## YEAS—74.

Alexander, N. Y.	Esch	Küstermann	Roberts
Anthony	Fassett	Longworth	Rodenberg
Barchfield	Fish	Lowden	Sheffield
Burke, Pa.	Foss	McGuire, Okla.	Simmons
Calderhead	Gaines	McKinley, Ill.	Smith, Iowa
Campbell	Garner, Pa.	McKinney	Stafford
Cassidy	Guernsey	Madden	Steenerson
Cole	Hanna	Madison	Sterling
Cooper, Pa.	Henry, Conn.	Malby	Stevens, Minn.
Cooper, Wis.	Hill	Mann	Swasey
Creager	Hinschaw	Martin, S. Dak.	Taylor, Ohio
Currier	Howell, N. J.	Moxley	Thomas, Ohio
Dalzell	Howell, Utah	Nelson	Tilson
Dodds	Howland	Norris	Volstead
Draper	Hull, Iowa	Nye	Vreeland
Durey	Humphrey, Wash.	Olmsted	Wiley
Dwight	Kendall	Palmer, H. W.	Woods, Iowa
Ellis	Kennedy, Iowa	Pratt	
Englebright	Kennedy, Ohio	Reader	

## NAYS—178.

Adair	Cullop	Hull, Tenn.	Oldfield
Adamson	Dent	Jamieson	Padgett
Alken	Denver	Johnson, Ky.	Page
Alexander, Mo.	Dickinson	Johnson, Ohio	Parsons
Ames	Dickson, Miss.	Johnson, S. C.	Pearre
Anderson	Diekema	Jones	Peters
Ansberry	Dies	Kelher	Plumley
Ashbrook	Dixon, Ind.	Kinkaid, Nebr.	Pray
Austin	Douglas	Kitchin	Prince
Barnhart	Driscoll, D. A.	Knowland	Pujo
Bartlett, Ga.	Driscoll, M. E.	Korbly	Rainey
Beall, Tex.	Edwards, Ga.	Lamb	Randell, Tex.
Bell, Ga.	Edwards, Ky.	Langham	Richardson
Bennet, N. Y.	Ellerbe	Langley	Robinson
Bingham	Elvins	Latta	Rothermel
Boehne	Estopinal	Law	Rucker, Colo.
Booher	Ferris	Lawrence	Rucker, Mo.
Borland	Fitzgerald	Lee	Saunders
Bowers	Flood, Va.	Legare	Shackleford
Brantley	Floyd, Ark.	Lever	Sheppard
Broussard	Foster, Ill.	Lindbergh	Sherley
Burgess	Gardner, Mass.	Lively	Sherwood
Burke, S. Dak.	Garner, Tex.	Livingston	Sims
Burleson	Garrett	Lloyd	Sisson
Burnett	Glass	McHenry	Slayden
Butler	Godwin	McLachlan, Cal.	Slemp
Byrd	Good	McLaughlin, Mich.	Small
Byrns	Gordon	Macon	Smith, Tex.
Calder	Graham, Ill.	Maguire, Nebr.	Spight
Candler	Grant	Martin, Colo.	Stanley
Cantrill	Greene	Massey	Stephens, Tex.
Carlin	Hamlin	Maynard	Suloway
Carter	Hardy	Mays	Taylor, Colo.
Cary	Harrison	Miller, Minn.	Thistlewood
Chapman	Havens	Mitchell	Thomas, Ky.
Clark, Fla.	Hay	Moon, Tenn.	Thomas, N. C.
Clark, Mo.	Heflin	Morgan, Mo.	Tou Velle
Clayton	Helm	Morgan, Okla.	Townsend
Cline	Henry, Tex.	Morrison	Turnbull
Collier	Hitchcock	Morse	Underwood
Cowles	Hobson	Moss	Watkins
Cox, Ind.	Hollingsworth	Needham	Webb
Cox, Ohio	Houston	Nicholls	Wickliffe
Craig	Hughes, Ga.	O'Connell	
Crumpacker	Hughes, N. J.	Olcott	

## ANSWERED "PRESENT"—6.

Boutell	Kopp	Parker	Young, N. Y.
Davis	Goulden		

## NOT VOTING—126.

Allen	Gardner, N. J.	Knapp	Reld
Andrus	Gill, Md.	Kronmiller	Rhincock
Barclay	Gill, Mo.	Lafean	Riordan
Barnard	Gillespie	Lenroot	Roddenbery
Bartholdt	Gillett	Lindsay	Sabath
Bartlett, Nev.	Goebel	Loud	Scott
Bates	Goldfogle	Loudenslager	Sharp
Bennett, Ky.	Graff	Lundin	Smith, Cal.
Bradley	Graham, Pa.	McCall	Smith, Mich.
Burleigh	Gregg	McCreary	Snapp
Capron	Griest	McCredie	Southwick
Cocks, N. Y.	Hamer	McDermott	Sparkman
Conry	Hamill	McKinlay, Cal.	Sperry
Coudrey	Hamilton	McMorran	Sturgiss
Covington	Hammond	Miller, Kans.	Sulzer
Cravens	Hardwick	Millington	Talbott
Crow	Haugen	Mondell	Tawney
Davidson	Hayley	Moon, Pa.	Taylor, Ala.
Dawson	Hayes	Moore, Pa.	Wallace
Denby	Heald	Moore, Tex.	Wanger
Dupre	Higgins	Morehead	Washburn
Fairchild	Howard	Mudd	Weeks
Finley	Hubbard, Iowa	Murdock	Welss
Focht	Hubbard, W. Va.	Murphy	Wheeler
Foelker	Huff	Palmer, A. M.	Willett
Fordney	Hughes, W. Va.	Patterson	Wilson, Ill.
Fornes	Humphreys, Miss.	Payne	Wilson, Pa.
Foster, Vt.	James	Pickett	Wood, N. J.
Fowler	Joyce	Poindexter	Woodyard
Fuller	Kahn	Pou	Young, Mich.
Gallagher	Keifer	Ransdell, La.	
Gardner, Mich.	Kinkad, N. J.	Rauch	

So the House refused to consider the report.

The Clerk announced the following additional pairs:

Until further notice:

Mr. BARTHOLDT with Mr. TALBOTT.

Mr. KAHN with Mr. GILL of Missouri.

Mr. OLMSTED with Mr. GALLAGHER.

Mr. HIGGINS with Mr. FINLEY.

Mr. BURLEIGH with Mr. RAUCH.

Mr. LAFEAN with Mr. TAYLOR of Alabama.

On this vote:

Mr. WANGER with Mr. KOPP.

## ORDER OF BUSINESS.

Mr. MANN. Mr. Speaker, I demand the regular order.

The SPEAKER. The gentleman from Illinois demands the regular order.

Mr. PRINCE. Mr. Speaker, I rise to make a motion which is preferential and privileged.

Mr. MANN. Mr. Speaker, I call the attention of the gentleman—

The SPEAKER. The gentleman from Illinois [Mr. MANN] demands the regular order. The gentleman from Illinois [Mr. PRINCE] rises for what purpose?

Mr. PRINCE. To move that the House resolve itself into the Committee of the Whole House for the consideration of business on the Private Calendar, this being Friday, the day set apart for that purpose.

Mr. MANN. Mr. Speaker, I call the attention of the Speaker to the rule printed on page 444 of the Manual:

On Friday of each week, after the unfinished business has been disposed of, it shall be in order to entertain a motion that the House resolve itself into the Committee of the Whole House to consider business on the Private Calendar.

Rule XXIV provides the order of business in the House:

The daily order of business shall be as follows: First, prayer by Chaplain; second, reading and approval of the Journal; third, reference of public bills; fourth, disposal of business on the Speaker's table; fifth, unfinished business.

The rule, quoting paragraph 6, Rule XXIV, provides:

On Friday of each week, after the unfinished business has been disposed of, it shall be in order to entertain a motion that the House resolve itself into Committee of the Whole House to consider business on the Private Calendar.

The unfinished business is not completed until the business on the Speaker's table has been disposed of. There has come to the Speaker's table a message from the President, which is entitled to be disposed of.

Mr. FITZGERALD. Mr. Speaker, the uniform practice has been, when a message from the President comes at this stage of the proceedings, to lay it before the House immediately before adjournment.

Mr. MANN. That is the uniform practice where the committee rises informally to receive a message from the President, which is the usual way it gets into the House; but where the President's message comes to the House itself, I think it is the uniform practice to lay it before the House at the first opportunity. Now, of course there may be a question whether the term "unfinished business," in paragraph 6, relates to unfinished business named in the first paragraph of Rule XXIV, or the unfinished private business. I call the attention of the Speaker to the fact that the rule says that "after the unfinished business has been disposed of," and that the first paragraph of the rule refers to unfinished business as coming after the business on the Speaker's table is disposed of. So, whether it be unfinished private business or unfinished public business, it comes after the business on the Speaker's table has been disposed of.

Mr. FITZGERALD. Unfinished business referred to in the rule is the business that has come over with the previous question ordered upon it.

Mr. MANN. I am not saying that the unfinished business is to come up now, but the right to go into Committee of the Whole comes after the unfinished business is disposed of, and the unfinished business comes after the matter on the Speaker's table has been disposed of.

The SPEAKER. Many decisions have been made touching business on Friday. It is perfectly clear from all the decisions that a general appropriation bill or a revenue bill has the right of way as an original proposition, if it is asserted, until the House disposes of that business on Friday. Now, so far as the Chair has been able to ascertain from a hasty examination, the Chair would have no hesitancy in saying that a conference report is that nature of business that would have priority on a Friday. And so might a President's message; but the Chair, however, will not make a ruling touching that matter at this time without further examination; but a question of privilege of the House or of a Member would, under the

rules and practice of the House, come primarily first. The House might make a disposition of these matters, if it saw proper to do so, on the question of consideration.

Now, the demand is made for the regular order, and the disposition of business on the Speaker's table is one of the items in the call—that is, after the Journal, and so forth, comes business on the Speaker's table. The Chair is perfectly clear, under the decisions and under the precedents and under the rule that business on the Speaker's table on Friday of a private nature would equally come before the motion to go into Committee of the Whole is made.

Therefore the Chair lays before the House the following House bill with Senate amendment:

WILLIAM MITCHELL.

The bill (H. R. 8699) to authorize the Secretary of War to recognize William Mitchell, deceased, as having been a member of Company C, First Regiment Tennessee Mounted Infantry, Civil War.

The Senate amendment was read.

Mr. HAY. I move to concur in the Senate amendment.

Mr. CARLIN. Upon that motion I demand the previous question.

Mr. MANN. Mr. Speaker—

The SPEAKER. For what purpose does the gentleman rise?

Mr. HAY. I have the floor.

Mr. MANN. I want to ask the gentleman a question.

Mr. HAY. I will yield to the gentleman for a question.

Mr. MANN. I notice that the Senate amendment strikes out all after the enacting clause and inserts a new proposition.

Mr. HAY. It is in the usual form.

Mr. MANN. The Committee on Military Affairs, then, in reporting it, made a slight mistake.

Mr. HAY. It did.

The SPEAKER. The question is on the motion of the gentleman from Virginia, that the House do concur in the Senate amendments.

The question was taken.

Mr. MANN. Mr. Speaker, I demand a division.

Mr. CARLIN. Mr. Speaker, I make the point of order that that is a dilatory demand, as there was no vote heard in the negative.

The SPEAKER. By no means. This is the consideration of Senate amendments on a motion that the House concur in the Senate amendments. From a viva voce expression the Chair always recognizes a demand for a division.

Mr. CARLIN. Mr. Speaker, I withdraw the point of order.

The House divided; and there were—ayes 155, noes 8.

Mr. MANN. Mr. Speaker, I make the point of order that there is not a quorum present.

Mr. HAY. Mr. Speaker, I make the point that that is dilatory.

Mr. LANGLEY. The last roll call discloses a quorum present.

The SPEAKER. The Chair is inclined to think that a quorum is present. The Chair just counted the House.

Mr. MANN. The Chair's count did not show a quorum, but if the Chair thinks there is a quorum present, that is satisfactory to me.

The SPEAKER. The Chair is satisfied there is a quorum present.

So the motion to concur in the Senate amendments was agreed to.

HORACE P. RUGG.

The SPEAKER laid before the House the bill (H. R. 26722) for the relief of Horace P. Rugg, with Senate amendments thereto.

The Senate amendments were read.

Mr. HAY. Mr. Speaker, I move to concur in the Senate amendments.

Mr. STEVENS of Minnesota. Mr. Speaker, I move that the House concur in the Senate amendments.

The SPEAKER. Who has charge of the bill?

Mr. STEVENS of Minnesota. Mr. Speaker, I make the motion that the House concur in the Senate amendments.

Mr. MANN. Will the gentleman yield for a question?

Mr. CARLIN. Mr. Speaker, would it be in order to move the previous question on the motion?

Mr. MANN. Let the gentleman move the previous question and we will have a roll call on it. Will the gentleman from Minnesota yield for a question?

Mr. STEVENS of Minnesota. Mr. Speaker, I yield to the gentleman from Illinois for a question.

Mr. MANN. Mr. Speaker, I notice that a resolution has been reported into the House for the purpose of correcting the language and the purport of all of the bills of this class which

passed the House during the last calendar year, or the last fiscal year, I think, the year 1910. Is the gentleman's committee now satisfied that this form of bill would enable a man to get a pension, that being the purpose, the form we passed last year having failed in that direction?

Mr. STEVENS of Minnesota. Mr. Speaker, that is quite a different proposition than that presented by the Senate amendments to this bill.

Mr. MANN. Oh, I supposed it was that proposition.

Mr. STEVENS of Minnesota. The recipient of this bill does not demand any pension. He is a man of independent means, and an unfortunate mistake occurred in his military record, well known to one of the influential Members of this House—the gentleman from Pennsylvania [Mr. BINGHAM]—and upon the statement of that gentleman the Committee on Military Affairs framed and passed the bill. The Senate did not desire that there should be any question that a pension could not be had, and so amended it, and the Committee on Military Affairs of the House is quite content to accept the Senate amendment. The gentleman from Illinois suggests that there is pending on the House calendar a proposition to correct some of the language of bills that have passed the House heretofore, correcting military records. Under a construction of the Pension Office the language of the House bills or the bills as passed by both of the Houses of Congress did not allow a pension. I think that was a mistake on the part of the department, but to prevent any error and to prevent any injustice the Committee on Military Affairs did frame and prepare an amendment to those bills that have heretofore passed, which is now upon the calendar. But this is not one of those cases. This is a case of obvious injustice, as is well known, as I stated, by the distinguished gentleman from Pennsylvania [Mr. BINGHAM], and upon his statement the Committee on Military Affairs acted, so that under these circumstances I move that the House do concur in the Senate amendment.

The SPEAKER. The question is on agreeing to the Senate amendment.

The question was taken, and the motion was agreed to.

JOHN B. LORD.

The SPEAKER also laid before the House from the Speaker's table the bill (S. 2045) for the relief of John B. Lord, owner of lot 86, square 723, Washington, D. C., with regard to assessment and payment of damages on account of changes of grade due to the construction of the Union Station, District of Columbia, with House amendments disagreed to by the Senate.

Mr. MANN. Mr. Speaker, I move that the House concur in the Senate amendment. Mr. Speaker, having made the motion, not wishing to detain the House, but I did not hear what the Senate amendment was and I would like to have it reported. I have no intention of detaining the House in reference to the matter.

The SPEAKER. Does the gentleman move that the House recede from its disagreement and concur in the amendments?

Mr. MANN. If it is in that shape, I do not care to make any motion at all, but let the people in charge of it make the motion.

Mr. SHERLEY. Mr. Speaker, for information I would like to know from what committee of the House the bill comes.

The SPEAKER. This seems to be a District of Columbia bill.

Mr. SHERLEY. Mr. Speaker, I move to refer it to the Committee on the District of Columbia.

Mr. MANN. Oh, no.

Mr. SHERLEY. But there is nobody here to take care of it.

Mr. MANN. Then let it be referred to the District of Columbia Committee. Mr. Speaker, the gentleman from Kentucky has moved to refer the bill to the District Committee, and I offer an amendment to that.

Mr. SHERLEY. The gentleman has not the floor yet.

The SPEAKER. The gentleman from New York, Mr. OLCOTT, is present.

Mr. OLCOTT. Mr. Speaker, is there any particular reason why this bill can not remain on the Speaker's table? I personally do not know anything about the bill, but I presume some gentleman on the Committee on the District of Columbia is interested in it. It seems to me to be rather unfortunate if some one is accidentally away that an opportunity should not be accorded to him to have the bill taken from the Speaker's table when he is present, and I hope that will be done. I would like to suggest that the bill remain on the Speaker's table, if that is the proper motion to make.

The SPEAKER. Does the gentleman from New York ask unanimous consent that the bill remain on the Speaker's table?

Mr. OLCOTT. That is exactly what I do, Mr. Speaker.

The SPEAKER. Is there objection?

Mr. SHERLEY. Pending the right to object, if I understand the call for the regular order shall not bring that bill up again to-day.



Mr. MANN. We can not have any understanding about it.  
Mr. SHERLEY. This is simply postponing it, and I am not willing for it to be used as a buffer.

Mr. MANN. All right; we will have two or three roll calls on it.

The SPEAKER. Is there objection to the request of the gentleman? [After a pause.] The Chair hears none, and the bill remains on the Speaker's table. This disposes of private bills on the Speaker's table.

Mr. PRINCE. Mr. Speaker, I now renew my motion that the House resolve itself into the Committee of the Whole for the consideration of bills on the Private Calendar.

The SPEAKER. The gentleman from Illinois moves that the House resolve itself into the Committee of the Whole for the consideration of bills on the Private Calendar.

Mr. MANN. Mr. Speaker, I make the point of order that that motion is not in order if the regular order be demanded, and I wish to be heard for a moment on the point of order.

The SPEAKER. The Chair will hear the gentleman.

Mr. MANN. Mr. Speaker, if it should be held that the public business on the Speaker's table can not be taken from the Speaker's table on Friday, pending the disposition of private business, there is no way, except by voting down the motion to go into the Committee of the Whole or by directly dispensing with the day, to get at even a President's message. This day may last for several days, and we would be without any method of taking from the Speaker's table a message from the President of the United States. It seems to me that is an unheard of proposition, that the President is not able to communicate with the Congress as provided by the Constitution. If you hold that you can not take from the Speaker's table a message from the President while the House is considering private business or pending the consideration of private business, the President is not able to communicate with Congress, as the Constitution provides he may, if a majority of the House do not wish to hear that message read or wish to keep on with some other business.

Mr. AUSTIN. May I ask the gentleman a question?

Mr. MANN. Certainly.

Mr. AUSTIN. Has not the President of the United States in his annual message asked Congress to make an appropriation to pay claims certified by the Court of Claims?

Mr. MANN. Yes; but if he now sent in a message asking to have them paid, under the contention of the gentleman the message could not be communicated to the House.

Mr. SHERLEY. Will the gentleman yield to a question?

Mr. MANN. Certainly.

Mr. SHERLEY. If the gentleman's reasoning is right, would it not also apply when we were having prayer by the Chaplain, or reading and approval of the Journal, or correction, and reference of public bills, all of which come ahead of the President's message?

Mr. MANN. I do not see the force of the reasoning at all.

Mr. SHERLEY. The gentleman's reasoning is that you can not hear the President's message, because you can not hear it at this moment.

Mr. MANN. Here is the gentleman's proposition: The House goes into the Committee of the Whole House on the state of the Union on the Private Calendar, stays in Committee of the Whole, rises, and goes back into the House; the House does not adjourn, and you can not take the message from the Speaker's table to be read. There would be a motion still in order to go back into Committee of the Whole House on the state of the Union on the Private Calendar, and you get yourself involved in a situation where it is not possible to receive a message from the President under the Constitution of the United States, no matter how important that message might be, except by unanimous consent.

Mr. SHERLEY. Would it not be in order to adjourn, and would not that prevent the reading of the message?

Mr. FITZGERALD. Those were rules adopted by the majority, of which the gentleman from Illinois [Mr. MANN] is a member. He should not find fault with them now. He never has found fault with them before.

Mr. MANN. The gentleman is carrying on a conversation with his next-door neighbor there. I can not understand it over here.

Mr. FITZGERALD. The Speaker understands it.

Mr. MORSE. The reporter got it down.

Mr. MANN. The reporter got up close to his shoulder.

The SPEAKER. The rule is plain. The Chair will read Rule XXVI, as follows:

Friday in every week shall be set apart for the consideration of private business unless otherwise determined by the House.

And the House may otherwise determine by motion if it is so ordered. In the absence of such order the Chair will not lay before the House public business.

Mr. FOSS. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. FOSS. Is it in order to move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the naval appropriation bill?

The SPEAKER. That has been uniformly held to be so with general appropriation bills and revenue bills.

Mr. FITZGERALD. Mr. Speaker, I desire to call the attention of the Speaker to this fact: That the proceedings to-day demonstrate that the House desires to vote on the motion which is in order to-day. The Chair not long since intimated that if a certain vote disclosed a disposition of the majority to do a certain kind of business, the House would not permit the interposition of motions, although they would be privileged.

Now, it is apparent that a substantial majority of the House desires to proceed to the consideration of business in order to-day. I believe the House is entitled to determine that question upon the motion in order in preference to the motion to be submitted by the gentleman from Illinois [Mr. Foss].

The SPEAKER. The gentleman from Illinois [Mr. PRINCE] did make a motion that the House resolve itself into Committee of the Whole House on the state of the Union for consideration of business on the Private Calendar, but the gentleman from Illinois [Mr. MANN] made the point of order—

Mr. FITZGERALD. No; he did not. He asked the Chair a question.

The SPEAKER (continuing). That there was public business on the Speaker's table that under the rules should be first considered. Now, while there is public business on the Speaker's table, yet, so far as the Chair has been able to ascertain from the precedents, it is not of that nature that it would be entitled to be considered without action upon the part of the House. Therefore the Chair overrules the point of order and entertains the motion made by the gentleman from Illinois [Mr. PRINCE].

Mr. PRINCE. Mr. Speaker, a parliamentary inquiry.

Mr. THOMAS of North Carolina. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. THOMAS of North Carolina. Does the Speaker recognize the gentleman from Illinois, Mr. Foss, or the gentleman from Illinois, Mr. PRINCE?

The SPEAKER. The Chair has just decided that point. The question is on the motion of the gentleman from Illinois [Mr. PRINCE].

The question was taken, and the Chair announced that the ayes seemed to have it.

Mr. MANN. Division, Mr. Speaker.

The House divided; and there were—ayes 151, noes 50.

Mr. MANN. Mr. Speaker, I demand the yeas and nays.

The SPEAKER. The gentleman from Illinois [Mr. MANN] demands the yeas and nays. All those who favor ordering the yeas and nays will rise and stand until counted. [After counting.] Fifty-one gentlemen have arisen.

Mr. CARLIN. Mr. Speaker, I demand tellers.

Mr. HEFLIN. Mr. Speaker, how many did the Chair announce?

The SPEAKER. Fifty-one—a sufficient number.

Mr. HEFLIN. The Speaker has superb counting ability and a marvelous imagination.

The SPEAKER. Does the gentleman from Virginia [Mr. CARLIN] demand tellers?

Mr. CARLIN. Yes, sir.

The SPEAKER. The Chair will state that as many as desire tellers on ordering the yeas and nays will rise and stand until counted.

Tellers were refused.

Mr. MADDEN. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER. The question is on the motion of the gentleman from Illinois [Mr. PRINCE]. The yeas and nays are ordered. Those in favor of the motion will answer "yea," those opposed will answer "nay," those present and not voting will answer "present," and the Clerk will call the roll.

The question was taken; and there were—yeas 181, nays 59, answered "present" 8, not voting 136, as follows:

## YEAS—181.

Adair  
Adamson  
Aiken  
Alexander, Mo.  
Alexander, N. Y.  
Ames  
Anderson  
Ashbrook  
Austin  
Barnhart

Bartlett, Ga.  
Beall, Tex.  
Bell, Ga.  
Bennet, N. Y.  
Boehne  
Booher  
Borland  
Bowers  
Brantley  
Broussard

Burgess  
Burke, Pa.  
Burleson  
Burnett  
Butler  
Byrns  
Calder  
Candler  
Candrell  
Carlin

Carter  
Cary  
Chapman  
Clark, Fla.  
Clark, Mo.  
Clayton  
Collier  
Cooper, Wis.  
Cowles  
Cox, Ind.

Cox, Ohio	Grant	Lever	Rucker, Mo.
Craig	Greene	Lively	Saunders
Creager	Guernsey	McHenry	Shackleford
Crumacker	Hamlin	McKinlay, Cal.	Sheffield
Clupp	Hardy	McKinney	Sheppard
Dawson	Harrison	McLachlan, Cal.	Sherley
Dent	Haugen	Macon	Sherwood
Denver	Havens	Maguire, Nebr.	Simmons
Dickinson	Hawley	Malby	Sims
Dickson, Miss.	Hay	Martin, Colo.	Sisson
Diekema	Hayes	Maynard	Slomp
Dies	Heflin	Mays	Small
Dixon, Ind.	Helm	Mitchell	Smith, Tex.
Dodds	Hitchcock	Mondell	Spight
Driscoll, D. A.	Hobson	Moon, Tenn.	Stanley
Edwards, Ga.	Hollingsworth	Morgan, Mo.	Stephens, Tex.
Edwards, Ky.	Houston	Morgan, Okla.	Sulloway
Ellerbe	Hughes, Ga.	Morse	Swasey
Englebright	Hull, Tenn.	Moss	Taylor, Ala.
Estopinal	Jamieson	Nicholls	Taylor, Colo.
Ferris	Johnson, Ky.	Nye	Taylor, Ohio.
Finley	Johnson, Ohio	O'Connell	Thistlewood
Fitzgerald	Johnson, S. C.	Oldcott	Thomas, Ky.
Flood, Va.	Jones	Oldfield	Thomas, N. C.
Floyd, Ark.	Keifer	Padgett	Tou Velle
Focht	Kelher	Page	Townsend
Foster, Ill.	Kitchin	Pearre	Turnbull
Foster, Vt.	Knowland	Plumley	Underwood
Fuller	Korby	Prince	Wallace
Gardner, Mass.	Lamb	Pujo	Watkins
Garner, Tex.	Langham	Rainey	Webb
Garrett	Langley	Randell, Tex.	Weeks
Godwin	Law	Richardson	Wickliffe
Good	Lawrence	Robinson	
Gordon	Lee	Rothermel	
Graham, Ill.	Legare	Rucker, Colo.	

## NAYS—59.

Anthony	Garner, Pa.	Lundin	Roberts
Barchfeld	Goebel	McGuire, Okla.	Rodenberg
Barnard	Graff	McKinley, Ill.	Scott
Bingham	Henry, Conn.	Madden	Smith, Iowa
Burke, S. Dak.	Hinsbaw	Mann	Snapp
Campbell	Howell, N. J.	Martin, S. Dak.	Stafford
Cline	Howell, Utah.	Miller, Kans.	Steenerson
Cooper, Pa.	Howland	Miller, Minn.	Sterling
Dalzell	Hubbard, Iowa	Morrison	Stevens, Minn.
Draper	Humphrey, Wash.	Moxley	Thomas, Ohio
Dwight	Kendall	Nelson	Tilson
Esch	Kennedy, Iowa	Norris	Volstead
Fassett	Klistermann	Olmsted	Wiley
Fish	Lindbergh	Palmer, H. W.	Woods, Iowa
Foss	Lowden	Pratt	

## ANSWERED "PRESENT"—8.

Douglas	Goulden	Kopp	Pickett
Driscoll, M. E.	Hughes, N. J.	Massey	Young, N. Y.

## NOT VOTING—136.

Allen	Fowler	Kinkaid, Nebr.	Peters
Andrus	Gaines	Kinkead, N. J.	Polindexter
Ansberry	Gallagher	Knapp	Pou
Barclay	Gardner, Mich.	Kronmiller	Pray
Bartholdt	Gardner, N. J.	Lafean	Ransdell, La.
Bartlett, Nev.	Gill, Md.	Latta	Rauch
Bates	Gill, Mo.	Lenroot	Reeder
Bennett, Ky.	Gillespie	Lindsay	Reid
Boutell	Gillet	Livingston	Rhinock
Bradley	Glass	Lloyd	Riordan
Burleigh	Goldfogle	Longworth	Roddenbery
Byrd	Graham, Pa.	Loud	Sabath
Calderhead	Gregg	Loudenslager	Sharp
Capron	Griest	McCall	Slayden
Cassidy	Hamer	McCreary	Smith, Cal.
Cocks, N. Y.	Hamill	McCredie	Smith, Mich.
Cole	Hamilton	McDermott	Southwick
Conry	Hammond	McLaughlin, Mich.	Sparkman
Coudrey	Hanna	McMorran	Sperry
Covington	Hardwick	Madison	Sturgiss
Cravens	Heald	Millington	Sulzer
Crow	Henry, Tex.	Moon, Pa.	Talbott
Currier	Higgins	Moore, Pa.	Tawney
Davidson	Hill	Moore, Tex.	Vreeland
Davis	Howard	Morehead	Wanger
Denby	Hubbard, W. Va.	Mudd	Washburn
Dupre	Huff	Murdoch	Weisse
Durey	Hughes, W. Va.	Murphy	Wheeler
Ellis	Hull, Iowa	Needham	Willett
Elvins	Humphreys, Miss.	Palmer, A. M.	Wilson, Ill.
Fairchild	James	Parker	Wilson, Pa.
Foelker	Joyce	Parsons	Wood, N. J.
Fordney	Kahn	Patterson	Woodyard
Fornes	Kennedy, Ohio	Payne	Young, Mich.

So the motion was agreed to.

The Clerk announced the following additional pairs:

For this session:

Mr. HILL with Mr. GLASS.

Until further notice:

Mr. CALDERHEAD with Mr. BYRD.

Mr. CURRIER with Mr. HAMMOND.

Mr. CAPRON with Mr. LIVINGSTON.

Mr. VREELAND with Mr. ANSBERRY.

Mr. FORDNEY with Mr. LATTI.

Mr. HEALD with Mr. SLAYDEN.

Mr. HIGGINS with Mr. SULZER.

Mr. KNAFF with Mr. LIVINGSTON.

Mr. GARDNER of New Jersey with Mr. LLOYD.

For the balance of the day:

Mr. LONGWORTH with Mr. HUGHES of New Jersey.

Mr. DOUGLAS with Mr. COLE.

On this vote:

Mr. WANGER with Mr. KOPP.

Mr. HUGHES of New Jersey. Mr. Speaker, I would like to know how I am recorded.

The SPEAKER. The gentleman from New Jersey [Mr. HUGHES] is recorded in the affirmative.

Mr. HUGHES of New Jersey. Mr. Speaker, I desire to change my vote. I am paired with the gentleman from Ohio [Mr. LONGWORTH]. I desire to vote "present."

The name of Mr. HUGHES of New Jersey was called, and he answered "present."

The result of the vote was then announced as above recorded.

Accordingly the House resolved itself into Committee of the Whole House for the consideration of bills on the Private Calendar, with Mr. CURRIER in the chair.

## ORDER OF BUSINESS.

The CHAIRMAN. The House is in Committee of the Whole House for the consideration of bills on the Private Calendar.

Mr. SIMS, Mr. PRINCE, and Mr. GARDNER of Massachusetts rose.

Mr. GARDNER of Massachusetts. Mr. Chairman, I call up the bill (S. 9674) for the relief of James Henry Payne, which I send to the Clerk's desk to have read.

Mr. SIMS. Mr. Chairman, I am a member of the Committee on War Claims, and I desire to make a preferential motion.

Mr. PRINCE. Mr. Chairman, I would much—

The CHAIRMAN. The Chair will first recognize a member of the Committee on Claims. The chairman of the committee desires to be recognized, and will be recognized.

Mr. PRINCE. Mr. Chairman, I would much prefer, if the committee would do so, to try to take up the bills in their regular order, for the reason, Mr. Chairman, that there has been a union of forces to bring about this result.

Mr. MANN. An unholy alliance, the gentleman means. [Laughter.]

Mr. PRINCE. It may be, but the alliance seemed to work out very well. [Laughter.]

Mr. HUGHES of New Jersey. If the gentleman from Illinois [Mr. MANN] is satisfied, you are.

Mr. PRINCE. If I am allowed by the Chairman of the Committee of the Whole to call up bills first, I will move to take up the first bill from the Committee on Claims, calendar No. 566.

Mr. SIMS. Mr. Chairman, I move as a substitute for that motion the following—

Mr. MANN. Mr. Chairman, I call the attention of the Chair to the fact that the gentleman from Tennessee [Mr. SIMS] is not a member of the Committee on Claims, which has priority to-day.

Mr. SIMS. I am a member of the Committee on War Claims.

The CHAIRMAN. The gentleman from Illinois [Mr. PRINCE], if he desires recognition, will be recognized to make any motion regarding the order of business on the Private Calendar.

Mr. GARDNER of Massachusetts. But, Mr. Chairman, I make the point of order that the gentleman has made no motion before the House.

Mr. PRINCE. Mr. Chairman, I move that we take up House bill 26121, calendar No. 566, a bill for the relief of Edward F. Kearns, which is the first bill coming from the Committee on Claims in order on the Private Calendar.

Mr. SIMS. Now, Mr. Chairman, I move to amend that motion—

The CHAIRMAN. Let the Chair state the question. The gentleman from Illinois [Mr. PRINCE] moves to take up the bill (H. R. 26121) for the relief of Edward F. Kearns, the first bill on the Private Calendar reported from the committee.

Mr. SIMS. I move to substitute for the bill mentioned by the gentleman from Illinois the bill (S. 7971) known as the omnibus claims bill, having claims in it from both the War Claims and the Claims Committees.

Mr. MANN. I make the point of order that the motion is not amendable.

The CHAIRMAN. The gentleman from Illinois makes the point of order that the motion made by his colleague [Mr. PRINCE] is not amendable.

Mr. SIMS. I moved it as a substitute.

The CHAIRMAN. The Chair so understands. A substitute is in the nature of an amendment. The Chair can not see that it will expedite business any to entertain the motion of the gentleman to amend by substituting another bill, since it is just as easy to vote down the motion made by the gentleman from Illinois [Mr. PRINCE]. The Chair does not think that the motion made by the gentleman from Illinois [Mr. PRINCE] is either debatable or amendable.



Mr. SIMS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SIMS. If the motion is voted down, then will the Chair recognize me to make this motion?

The CHAIRMAN. The Chair will have to recognize some one, but can not state at this time to whom recognition will be given.

Mr. SIMS. The rule is that the Committee of the Whole has a right to determine its own order of business after it has gone into Committee of the Whole.

The CHAIRMAN. And the gentleman from Illinois has made a motion looking to that determination. The question is on the motion of the gentleman from Illinois [Mr. PRINCE].

The question being taken, the Chairman announced that the ayes appeared to have it.

Mr. SIMS and Mr. THOMAS of North Carolina demanded a division.

The committee divided; and there were—ayes 61, noes 82.

Accordingly the motion was rejected.

#### OMNIBUS CLAIMS BILL.

Mr. SIMS. Now, Mr. Chairman, I renew my motion to take up the bill (S. 7971) for the allowance of certain claims reported by the Court of Claims, and for other purposes, known as the "omnibus bill."

The CHAIRMAN. The gentleman from Tennessee moves to take up the bill S. 7971. The question is on the motion of the gentleman from Tennessee.

Mr. GARDNER of Massachusetts. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GARDNER of Massachusetts. Is that motion debatable?

The CHAIRMAN. The motion is not debatable.

The question being taken, the Chairman announced that the ayes appeared to have it.

Mr. MANN. Division!

The committee divided; and there were—ayes 86, noes 47.

Accordingly the motion was agreed to.

The CHAIRMAN. The Clerk will report the bill.

The Clerk read the title of the bill.

Mr. SIMS. I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent that the first reading of the bill be dispensed with.

Mr. MILLER of Kansas and Mr. GARDNER of Massachusetts objected.

The CHAIRMAN. Objection is heard.

Mr. SIMS. Mr. Chairman, is it in order to move to dispense with the first reading of the bill?

The CHAIRMAN. It is not in order to move it. The Clerk will report the bill.

The Clerk proceeded with the reading of the bill.

Mr. PRINCE (when the Clerk had read to line 21, page 24). Mr. Chairman, I ask unanimous consent that the further reading of the bill be dispensed with.

Mr. MANN. I object. I want the bill read, so that we may understand it. It seems to me, Mr. Chairman, that we ought to have a quorum of the committee here to hear the bill read, and I make the point of order that there is no quorum. I should not have made the point had it not been that my colleague interrupted the reading of the bill.

The CHAIRMAN (Mr. KENDALL). The gentleman from Illinois makes the point of no quorum. The Chair will count. [After counting.] Seventy-nine Members present—not a quorum—and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Allen	Coudrey	Fish	Hamer
Andrus	Covington	Flood, Va.	Hamill
Anthony	Cox, Ind.	Focht	Hamilton
Ashbrook	Cravens	Foelker	Hanna
Barchfeld	Creager	Fordney	Hardwick
Barclay	Crow	Fornes	Harrison
Barnard	Crumpacker	Fowler	Haugen
Barnhart	Dent	Gaines	Havens
Bartlett, Nev.	Dies	Gallagher	Hawley
Bates	Dixon, Ind.	Gardner, Mass.	Hay
Bennett, Ky.	Douglas	Gardner, Mich.	Heald
Boutell	Draper	Garner, Pa.	Hedley
Bowers	Dupre	Gill, Md.	Henry, Conn.
Burke, Pa.	Durey	Gill, Mo.	Henry, Tex.
Burleigh	Ellis	Gillespie	Hill
Calder	Elvins	Gillett	Hitchcock
Campbell	Englebright	Glass	Hobson
Capron	Esch	Goebel	Howard
Cassidy	Estopinal	Goldfogle	Howell, Utah
Clark, Fla.	Fairchild	Graham, Pa.	Hubbard, Iowa
Cocks, N. Y.	Fassett	Gregg	Huff, Pa.
Conry		Griest	Hughes, W. Va.

Hull, Iowa	Lundin	Palmer, A. M.	Slayden
Humphrey, Wash.	McCreary	Palmer, H. W.	Smith, Cal.
Humphreys, Miss.	McCredie	Patterson	Smith, Mich.
James	McDermott	Payne	Sperry
Johnson, Ohio	McGuire, Okla.	Pearre	Steenerson
Johnson, S. C.	McKinlay, Cal.	Peters	Stevens, Minn.
Joyce	McLachlan, Cal.	Poindexter	Sturgiss
Kahn	McMorran	Pou	Talbot
Kinkaid, N. J.	Madden	Pratt	Taylor, Ala.
Kitchin	Madison	Pujo	Thomas, Ohio
Knapp	Martin, S. Dak.	Ransdell, La.	Townsend
Knowland	Maynard	Reeder	Wallace
Kopp	Miller, Minn.	Reid	Wanger
Kronmiller	Millington	Rhinock	Washburn
Küstermann	Moon, Pa.	Richardson	Weeks
Lafean	Moore, Pa.	Riordan	Weisse
Langham	Moore, Tex.	Roddenbery	Wheeler
Lenroot	Morehead	Rodenberg	Willett
Lindbergh	Morgan, Mo.	Sabath	Wilson, Ill.
Lindsay	Morrison	Saunders	Wilson, Pa.
Livingston	Moss	Scott	Wood, N. J.
Longworth	Mudd	Shackelford	Woods, Iowa
Loud	Murdock	Sharp	Woodard
Loudenslager	Murphy	Sheffield	Young, Mich.
Lowden	Nelson	Simmons	

The CHAIRMAN. Under the rule the committee will rise.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. KENDALL, Chairman of the Committee of the Whole House, reported that that committee had found itself without a quorum, that the roll had been called, and that he returned the list of absentees.

The SPEAKER. The report shows that there are present 188 Members. Under the rule the committee will resume its sessions.

Accordingly the House resolved itself into Committee of the Whole House, with Mr. KENDALL in the chair.

The Clerk resumed the reading of the bill.

Mr. SIMS (when the French spoliation claims were reached). Mr. Chairman, the part of the bill that the Clerk is now reading has been stricken out.

The CHAIRMAN. It is part of the bill.

Mr. SIMS. It appears on the bill, but it has been stricken out.

The CHAIRMAN. It is a part of the bill that is supposed to be stricken out.

Mr. SIMS. It is stricken out in the print.

Mr. MANN. If necessary I will ask that the original bill be read in which it is not stricken out.

The CHAIRMAN. It is a part of the bill and the Clerk will continue the reading.

The Clerk proceeded with the reading of the bill.

Mr. MANN (when the Clerk had reached page 82, line 3). Mr. Chairman, I think that the House ought to hear this bill, and I make the point of order that no quorum is present.

The CHAIRMAN (Mr. DIEKEMA). The gentleman from Illinois makes the point of no quorum, and the Chair will count.

Mr. HEFLIN. Mr. Chairman, I hope the gentleman will withdraw his point of order. He will get to bed much earlier, because we intend to stay here all night if necessary.

Mr. MANN. I do not see how I should get to bed any earlier if we stay here all night. [Laughter.]

Mr. HEFLIN. This is an important bill.

Mr. MANN. It is extremely important, and there is not a quorum in the House.

The CHAIRMAN. Fifty-five Members present—not a quorum—and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Adair	Chapman	Englebright	Graham, Ill.
Alexander, Mo.	Clark, Fla.	Esch	Graham, Pa.
Alexander, N. Y.	Clark, Mo.	Estopinal	Greene
Allen	Cline	Fairchild	Gregg
Anderson	Cocks, N. Y.	Fassett	Griest
Andrus	Cole	Ferris	Hamer
Ansberry	Conry	Fish	Hamill
Anthony	Cooper, Pa.	Focht	Hamilton
Ashbrook	Coudrey	Foelker	Hamlin
Barchfeld	Covington	Fordney	Hammond
Barclay	Cowles	Fornes	Hardwick
Barnard	Cox, Ohio	Foster, Ill.	Hardy
Barnhart	Cravens	Foster, Vt.	Harrison
Bartlett, Nev.	Creager	Fowler	Haugen
Bates	Crow	Fuller	Havens
Bennett, N. Y.	Crumpacker	Gaines	Hawley
Bennett, Ky.	Dalzell	Gallagher	Hayes
Bingham	Davidson	Gardner, Mass.	Head
Boehne	Davis	Gardner, Mich.	Henry, Conn.
Boutell	Dawson	Gardner, N. J.	Higgins
Bowers	Denby	Garner, Pa.	Hill
Bradley	Dies	Gill, Md.	Hinshaw
Burgess	Dodds	Gill, Mo.	Hitchcock
Burke, Pa.	Douglas	Gillett	Howard
Burke, S. Dak.	Draper	Glass	Howell, N. J.
Burleigh	Driscoll, M. E.	Goebel	Hubbard, W. Va.
Campbell	Durey	Goldfogle	Huff
Capron	Durey	Good	Hughes, W. Va.
Carter	Ellis	Goulden	Hull, Iowa
Cassidy	Elvins	Graft	Humphrey, Wash.

Humphreys, Miss.	McCall	Parsons	Southwick
James	McCreary	Patterson	Sparkman
Johnson, Ky.	McCredie	Payne	Sperry
Johnson, Ohio	McDermott	Pearre	Stanley
Johnson, S. C.	McGuire, Okla.	Peters	Steenerson
Joyce	McHenry	Pickett	Stephens, Tex.
Kahn	McKinlay, Cal.	Plumley	Sterling
Kelifer	McKinley, Ill.	Poindexter	Stevens, Minn.
Kellher	McKinney	Pou	Sturgiss
Kennedy, Iowa	McLaughlin, Mich.	Pratt	Sulzer
Kennedy, Ohio	McMorran	Pray	Swasey
Kinkaid, Nebr.	Madden	Pujo	Talbot
Kinkead, N. J.	Mann	Ransdell, La.	Taylor, Colo.
Kitchin	Martin, S. Dak.	Reid	Taylor, Ohio
Knapp	Maynard	Rhinock	Thistlewood
Knowland	Miller, Minn.	Riordan	Thomas, Ohio
Kopp	Millington	Roberts	Townsend
Korbly	Mondell	Roddenberry	Vreeland
Kronmiller	Moon, Pa.	Rodenberg	Wallace
Kuftermann	Moore, Pa.	Rothermel	Wanger
Lafean	Moore, Tex.	Rucker, Colo.	Washburn
Langham	Morehead	Sabath	Webb
Langley	Morrison	Saunders	Weeks
Latta	Morse	Scott	Weisse
Law	Moss	Shackleford	Wheeler
Legare	Moxley	Sharp	Wiley
Lenroot	Mudd	Sheffield	Willett
Lever	Murdoch	Sheppard	Wilson, Ill.
Lindbergh	Murphy	Sherley	Wilson, Pa.
Lindsay	Needham	Sherwood	Wood, N. J.
Lively	Nelson	Slayden	Woods, Iowa
Livingston	Nicholls	Small	Woodyard
Longworth	Norris	Smith, Cal.	Young, Mich.
Loud	O'Connell	Smith, Iowa	Young, N. Y.
Loudenslager	Page	Smith, Mich.	
Lowden	Palmer, A. M.	Smith, Tex.	
Lundin	Palmer, H. W.	Snapp	

The committee rose; and Mr. OLMSTED having assumed the chair as Speaker pro tempore, Mr. CURRIER, Chairman of the Committee of the Whole House, reported that that committee, having had under consideration bills on the Private Calendar and finding itself without a quorum, the roll was called, and he reported the list of absentees.

The SPEAKER pro tempore. The Chairman of the Committee of the Whole House reports that that committee, finding itself without a quorum, ordered the roll to be called under the rule, and reports the list of absentees. It appears from the roll that 117 Members are present—a quorum. The committee will resume its session.

Accordingly the committee resumed its session and the Clerk proceeded with the reading of the bill.

Mr. SIMS. Mr. Chairman, I ask unanimous consent that the further reading of the bill be dispensed with.

Mr. DWIGHT. I object.

The Clerk continued to read the bill, and read as far as line 17, page 101, when,

Mr. KENDALL. Mr. Chairman, I make the suggestion that only about a dozen Members of the House are present, and they are not devoting any attention to the reading of the bill. I therefore ask unanimous consent that the further reading of the bill be dispensed with.

The CHAIRMAN. The gentleman from Iowa asks unanimous consent that the further reading of the bill be dispensed with. Is there objection?

Mr. MANN. I object; and as there is nobody here, I make the point that there is no quorum present.

The CHAIRMAN. The Chair will count.

Mr. HEFLIN. Mr. Chairman, I trust the gentleman from Illinois [Mr. MANN] will withdraw his point of no quorum. It is now 7 o'clock and we have been here since 10 o'clock this morning, and Republican Members have been filibustering all of that time for the purpose of defeating this bill.

The CHAIRMAN. Of course, the gentleman realizes that he is proceeding by unanimous consent, since under the rules the Chair is compelled to begin the count.

Mr. HEFLIN. Then I ask unanimous consent to speak a few minutes. I want to say a few things about this filibuster of the gentleman from Illinois [Mr. MANN].

Mr. MANN. Mr. Chairman, I do not believe we ought to waste the time of the House at this time in that way, and therefore I object.

Mr. HEFLIN. I supposed the gentleman would object.

The CHAIRMAN. The point of no quorum having been made, the Chair must proceed with the count.

Mr. CARLIN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MANN. Mr. Chairman, we will first have to ascertain whether there is a quorum present.

Mr. CARLIN. It is with reference to ascertaining the presence of a quorum that I wish to make the inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CARLIN. It has been only about 15 minutes since the point of no quorum was made, and a quorum was disclosed.

The CHAIRMAN. But the gentleman's suggestion that the point of no quorum may be dilatory comes too late, as the Chair

was counting and no point of order had been made. The Chair will continue the count. [After counting.] Fifty-seven Members present—not a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Adair	Ellis	Joyce	Pratt
Alexander, Mo.	Elvins	Kahn	Pray
Alexander, N. Y.	Esch	Kelifer	Rainey
Allen	Estopinal	Kellher	Ransdell, La.
Andrus	Fairchild	Kennedy, Ohio	Reeder
Ansberry	Fassett	Kinkaid, Nebr.	Reid
Anthony	Flsh	Kinkead, N. J.	Rhinock
Ashbrook	Fitzgerald	Kitchin	Riordan
Austin	Flood, Va.	Knapp	Roberts
Barchfeld	Focht	Knowland	Roddenberry
Barclay	Foelker	Korbly	Rodenberg
Barnard	Fordney	Kronmiller	Rothermel
Barnhart	Fornes	Kuftermann	Rucker, Mo.
Bartlett, Ga.	Foster, Ill.	Lafean	Sabath
Bartlett, Nev.	Foster, Vt.	Langham	Saunders
Bates	Fowler	Langley	Scott
Bennet, N. Y.	Fuller	Latta	Shackleford
Bennett, Ky.	Gaines	Lenroot	Sharp
Bingham	Gallagher	Lindsay	Sheffield
Boehne	Gardner, Mass.	Lively	Sheppard
Booher	Gardner, Mich.	Livingston	Sherley
Borland	Gardner, N. J.	Lloyd	Sherwood
Boutell	Garner, Pa.	Longworth	Simmons
Bowers	Gill, Md.	Loud	Slayden
Bradley	Gill, Mo.	Loudenslager	Slomp
Burke, Pa.	Gillespie	Lowden	Small
Burke, S. Dak.	Gillett	Lundin	Smith, Cal.
Burleigh	Glass	McCall	Smith, Iowa
Burleson	Goebel	McCreary	Smith, Mich.
Burnett	Goldfogle	McCredie	Smith, Tex.
Byrd	Good	McDermott	Snapp
Calder	Goulden	McGuire, Okla.	Southwick
Calderhead	Graf	McHenry	Sparkman
Campbell	Graham, Ill.	McKinlay, Cal.	Sperry
Candler	Graham, Pa.	McKinley, Ill.	Stafford
Cantrill	Greene	McMorran	Steenerson
Capron	Gregg	Madden	Stephens, Tex.
Carter	Griest	Malby	Sterling
Cassidy	Guernsey	Martin, S. Dak.	Stevens, Minn.
Chapman	Hamer	Massey	Sturgiss
Clark, Fla.	Hamill	Maynard	Sulzer
Clark, Mo.	Hamilton	Mays	Swasey
Cline	Hamlin	Miller, Minn.	Talbot
Cocks, N. Y.	Hammond	Millington	Tawney
Cole	Hardwick	Mondell	Taylor, Colo.
Conry	Hardy	Moon, Pa.	Taylor, Ohio
Cooper, Pa.	Harrison	Moore, Pa.	Thistlewood
Coudrey	Haugen	Moore, Tex.	Thomas, Ky.
Covington	Havens	Morehead	Thomas, Ohio
Cox, Ohio	Hay	Morrison	Tilson
Craig	Hayes	Morrie	Tou Velle
Cravens	Heald	Moxley	Townsend
Cresger	Henry, Conn.	Mudd	Turnbull
Crow	Higgins	Murdoch	Volstead
Crumpacker	Hill	Murphy	Vreeland
Dalzell	Hinshaw	Needham	Wallace
Davidson	Hitchcock	Nelson	Wanger
Davis	Hobson	Nicholls	Washburn
Denby	Howard	Norris	Webb
Dent	Howell, N. J.	O'Connell	Weeks
Denver	Howland	Padgett	Weisse
Dickinson	Hubbard, Iowa	Page	Wheeler
Dickson, Miss.	Hubbard, W. Va.	Palmer, A. M.	Wiley
Diekema	Huff	Palmer, H. W.	Willett
Dies	Hughes, W. Va.	Parker	Wilson, Ill.
Dixon, Ind.	Hull, Iowa	Parsons	Wilson, Pa.
Dodds	Humphrey, Wash.	Patterson	Wood, N. J.
Douglas	Humphreys, Miss.	Payne	Woods, Iowa
Draper	James	Pearre	Woodyard
Driscoll, M. E.	Jamieson	Peters	Young, Mich.
Dupre	Johnson, Ky.	Pickett	Young, N. Y.
Durey	Johnson, Ohio	Plumley	
Ellerbe	Jones	Poindexter	

The committee rose; and Mr. OLMSTED having assumed the chair as Speaker pro tempore, Mr. CURRIER, Chairman of the Committee of the Whole House, reported that that committee, having had under consideration bills on the Private Calendar, had found itself without a quorum, and had ordered the roll to be called under the rule, and reported the list of absentees to the House.

The SPEAKER pro tempore. The Chairman of the Committee of the Whole House reports that that committee, having had under consideration bills on the Private Calendar and finding itself without a quorum, ordered the roll to be called, and he now reports the list of absentees. It appears from the roll that there are 84 Members present—not a quorum.

Mr. MANN. Mr. Speaker, I move that the House do now adjourn.

Mr. THOMAS of North Carolina. Mr. Speaker, I move the call of the House.

The SPEAKER pro tempore. The motion to adjourn takes preference. The question is on the motion of the gentleman from Illinois that the House do now adjourn.

The question was taken; and on a division (demanded by Mr. MANN) there were—ayes 18, noes 51.

Mr. MANN. Mr. Speaker, I demand the yeas and nays.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MANN] demands the yeas and nays. All who are in favor



of demanding the yeas and nays will rise and stand until counted. [After counting.] There are 15 gentlemen standing; not a sufficient number.

Mr. MANN. I ask for the other side.

Mr. CARLIN. Mr. Speaker, I raise a point of order that the demand is dilatory.

The yeas and nays were refused.

Mr. UNDERWOOD. Mr. Speaker, I move a call of the House, and that the Sergeant at Arms be instructed to bring in absentees.

The SPEAKER pro tempore. The gentleman from Alabama moves a call of the House and that the Sergeant at Arms be instructed to bring in absentees.

The question was taken; and there were—ayes 56, noes 16.

Mr. MANN. Mr. Speaker, I demand the yeas and nays.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MANN] demands the yeas and nays. All who are in favor of ordering the yeas and nays will rise and stand until counted. [After counting.] There are 13 gentlemen standing, not a sufficient number; and the yeas and nays are refused.

A call of the House is ordered. The doors will be closed, and the Sergeant at Arms will bring in absent Members.

The roll was called.

Mr. UNDERWOOD. Mr. Speaker, does the roll call show a quorum?

The SPEAKER pro tempore. The Chair is informed that it does not.

Mr. UNDERWOOD. I move that the Sergeant at Arms arrest the absentees and bring them before the House.

The SPEAKER pro tempore. The gentleman from Alabama [Mr. UNDERWOOD] moves that the Sergeant at Arms arrest absentees and bring them to the bar of the House. The Chair thinks that motion is in order even in the absence of a quorum, as its manifest purpose is to secure the presence of a quorum.

The question is on the motion of the gentleman from Alabama [Mr. UNDERWOOD].

The question was taken, and the Chair announced that the ayes seemed to have it.

Mr. MANN. I demand a division.

The House divided; and there were—ayes 65, noes 12.

Mr. MANN. Mr. Speaker, I demand the yeas and nays.

The SPEAKER pro tempore. The yeas and nays are demanded. After counting the ayes—

Mr. MANN. I ask for the other side, Mr. Speaker.

The SPEAKER pro tempore. Upon this vote the ayes are 22, the noes are 76, and the yeas and nays are ordered.

The question was taken; and there were—yeas 121, nays 16, answered "present" 12, not voting 235, as follows:

## YEAS—121.

Adair	Dent	Humphreys, Miss.	Prince
Adamson	Denver	Johnson, Ky.	Pujo
Ames	Dickinson	Johnson, S. C.	Raney
Anderson	Dickson, Miss.	Jones	Randell, Tex.
Ashbrook	Dixon, Ind.	Kendall	Richardson
Beall, Tex.	Driscoll, D. A.	Kitchin	Robinson
Bell, Ga.	Edwards, Ga.	Korbly	Rucker, Colo.
Borland	Ellerbe	Lamb	Rucker, Mo.
Brantley	Elvins	Langley	Saunders
Broussard	Estopinal	Latta	Sheppard
Burgess	Ferris	Law	Sherwood
Burke, S. Dak.	Finley	Lawrence	Sims
Burnett	Floyd, Ark.	Lee	Sisson
Byrd	Garner, Tex.	Legare	Slomp
Byrns	Garrett	Lever	Snapp
Candler	Gillespie	Lindbergh	Spight
Cantrill	Godwin	Lively	Sulloway
Carlin	Gordon	Lloyd	Taylor, Ala.
Cary	Grant	McKinney	Taylor, Colo.
Chapman	Hamlin	McLachlan, Cal.	Thistlewood
Clark, Fla.	Hardy	McLaughlin, Mich.	Thomas, Ky.
Clayton	Harrison	Macon	Thomas, N. C.
Cline	Hawley	Maguire, Nebr.	Tou Velle
Collier	Hay	Martin, Colo.	Turnbull
Cooper, Wis.	Hefflin	Mays	Underwood
Cowles	Helm	Mitchell	Watkins
Cox, Ind.	Henry, Tex.	Moon, Tenn.	Webb
Cullop	Hollingsworth	Morgan, Mo.	Wickliffe
Currier	Houston	Moss	
Dalzell	Hughes, Ga.	Oldfield	
Dawson	Hull, Tenn.	Page	

## NAYS—16.

Driscoll, M. E.	Hull, Iowa	Mann	Pratt
Dwight	Kennedy, Iowa	Miller, Kans.	Southwick
Englebright	Klistermann	Morgan, Okla.	Sterling
Hanna	Langham	Nye	Tilson

## ANSWERED "PRESENT"—12.

Butler	Edwards, Ky.	Howell, Utah	Pickett
Calderhead	Foster, Ill.	Kopp	Reeder
Carter	Graham, Ill.	Olmsted	Simmons

## NOT VOTING—235.

Aiken	Fitzgerald	Kelfer	Peters
Alexander, Mo.	Flood, Va.	Kelher	Plumley
Alexander, N. Y.	Focht	Kennedy, Ohio	Poindexter
Allen	Foelker	Kinkaid, Nebr.	Pou
Andrus	Fordney	Kinkaid, N. J.	Pray
Ansberry	Fornes	Knapp	Ransdell, La.
Anthony	Foss	Knowland	Rauch
Austin	Foster, Vt.	Arnonmiller	Reld
Barchfeld	Fowler	Lafean	Rhinock
Barclay	Fuller	Lenroot	Riordan
Barnard	Gaines	Lindsay	Roberts
Barnhart	Gallagher	Livingston	Roddenbery
Bartholdt	Gardner, Mass.	Longworth	Rodenberg
Bartlett, Ga.	Gardner, Mich.	Loud	Rothermel
Bartlett, Nev.	Gardner, N. J.	Loudenslager	Sabath
Bates	Garner, Pa.	Lowden	Scott
Bennet, N. Y.	Gill, Md.	Lundin	Shackelford
Bennett, Ky.	Gill, Mo.	McCall	Sharp
Bingham	Gillett	McCreary	Sheffield
Boehne	Glass	McCredie	Sherley
Booher	Goebel	McDermott	Slayden
Boutell	Goldfogle	McGuire, Okla.	Small
Bowers	Good	McHenry	Smith, Cal.
Bradley	Goulden	McKinlay, Cal.	Smith, Iowa
Burke, Pa.	Graft	McKinlay, Ill.	Smith, Mich.
Burleigh	Graham, Pa.	McMorran	Smith, Tex.
Burleson	Greene	Madden	Sparkman
Calder	Grieg	Maddison	Sperry
Campbell	Griest	Malby	Stafford
Capron	Guernsey	Martin, S. Dak.	Stanley
Cassidy	Hamer	Masses	Steenerson
Clark, Mo.	Hamill	Maynard	Stevens, Tex.
Cocks, N. Y.	Hamilton	Miller, Minn.	Stevens, Minn.
Cole	Hammond	Millington	Sturgiss
Conry	Hardwick	Mondell	Sulzer
Cooper, Pa.	Haugen	Moore, Pa.	Swasey
Coudrey	Havens	Moore, Pa.	Talbott
Corvinton	Hayes	Moore, Tex.	Talway
Cox, Ohio	Heald	Morehead	Taylor, Ohio
Craig	Henry, Conn.	Morrison	Thomas, Ohio
Cravens	Higgins	Morse	Townsend
Creager	Hill	Moxley	Volstead
Crow	Hinshaw	Mudd	Vreeland
Crumpacker	Hitchcock	Murdock	Wallace
Davidson	Hobson	Murphy	Wanger
Davis	Howard	Needham	Washburn
Denby	Howell, N. J.	Nelson	Weeks
Diekema	Howland	Nicholls	Weisse
Dies	Hubbard, Iowa	Norris	Wheeler
Dodds	Hubbard, W. Va.	O'Connell	Wiley
Douglas	Huff	Olcott	Willett
Draper	Hughes, N. J.	Padgett	Wilson, Ill.
Dupre	Hughes, W. Va.	Palmer, A. M.	Wilson, Pa.
Durey	Humphrey, Wash.	Palmer, H. W.	Wood, N. J.
Ellis	James	Parker	Woods, Iowa
Esch	Jamieson	Parsons	Woodard
Fairchild	Johnson, Ohio	Patterson	Young, Mich.
Fassett	Joyce	Payne	Young, N. Y.
Fish	Kahn	Pearre	

So the motion was agreed to.

During the roll call the following occurred:

Mr. CARLIN. Mr. Speaker, a parliamentary inquiry. I would like to know if the call has not disclosed a quorum present.

The SPEAKER pro tempore. A quorum is not required to be present to vote upon this, and nothing is in order during the call. The Clerk will proceed with the call.

The Clerk announced the following additional pairs:

On this vote:

Mr. WEEKS with Mr. FOSTER of Vermont.

Mr. WANGER with Mr. KOPP.

For balance of day:

Mr. FOSS with Mr. FLOOD of Virginia.

Mr. PLUMLEY with Mr. STEPHENS of Texas.

Mr. NORRIS with Mr. CARTER.

Mr. KINKAID of Nebraska with Mr. SMITH of Texas.

Mr. MCKINLEY of Illinois with Mr. BURLESON.

Mr. WILEY with Mr. COX of Ohio.

Mr. HAYES with Mr. MORRISON.

Mr. HENRY of Connecticut with Mr. GRAHAM of Illinois.

Mr. NEEDHAM with Mr. FOSTER of Illinois.

Mr. O'CONNELL (against) with Mr. BOOHER (in favor).

Mr. TAYLOR of Ohio with Mr. SHERLEY.

Mr. HINSHAW with Mr. BOEHNE.

Mr. STERLING with Mr. CLINE.

Mr. BENNET of New York with Mr. CLARK of Missouri.

Until further notice:

Mr. PEARRE with Mr. WALLACE.

Mr. MALBY with Mr. STANLEY.

Mr. ESCH with Mr. SMALL.

Mr. MADDEN with Mr. SHACKLEFORD.

Mr. CRUMPACKER with Mr. PETERS.

Mr. COOPER of Pennsylvania with Mr. PADGETT.

Mr. HENRY W. PALMER with Mr. NICHOLLS.

Mr. KAHN with Mr. MCHENRY.

Mr. GRIEST with Mr. KELIHER.

Mr. BURKE of Pennsylvania with Mr. JAMIESON.

Mr. BINGHAM with Mr. HITCHCOCK.  
 Mr. GREENE with Mr. HAVENS.  
 Mr. DRAPER with Mr. FITZGERALD.  
 Mr. BARTHOLOMT with Mr. CRAIG.  
 Mr. SULLOWAY with Mr. MOSS.  
 Mr. TAWNEY with Mr. ALEXANDER of Missouri.  
 Mr. BARNARD with Mr. HAMMOND.  
 Mr. HAMILTON with Mr. AIKEN.  
 Mr. AUSTIN with Mr. ANSBERRY.  
 Mr. BARCHFELD with Mr. BARTLETT of Nevada.

For the session:

Mr. BUTLER with Mr. BARTLETT of Georgia.

Mr. HIGGINS. Mr. Speaker, how am I recorded?

The SPEAKER pro tempore. The gentleman is not recorded.

Mr. HIGGINS. I would like to vote "no."

The SPEAKER pro tempore. Was the gentleman present and listening when his name was called?

Mr. HIGGINS. I was not; I understood it was a call of the House.

The SPEAKER pro tempore. No; it is not a call of the House. Upon this vote the yeas are 121, the nays are 16, present 12. The yeas have it, and the motion prevails. The execution of the order of the House requires the issuance of a warrant or warrants, and in order that there may be no doubt of the authority of the present occupant of the Chair to issue and sign such warrants, the Clerk will read the following designation by the Speaker.

The Clerk read as follows:

FEBRUARY 17, 1911.

I hereby designate the Hon. MARLIN E. OLMSTED, of Pennsylvania, as Speaker pro tempore this day.

J. G. CANNON, Speaker.

The SPEAKER pro tempore. The Sergeant at Arms will be directed to arrest absent Members, as directed by order of the House, and present them at the bar of the House.

Mr. CLAYTON. Mr. Speaker—

The SPEAKER pro tempore. For what purpose does the gentleman from Alabama rise?

Mr. CLAYTON. I rise, Mr. Speaker, to ask unanimous consent to make a few remarks. [Cries of "Hear!" "Hear!"]

The SPEAKER pro tempore. The Chair can entertain nothing but a motion to adjourn.

Mr. CLAYTON. Mr. Speaker, I thought I would at least add to the instructiveness of the occasion or perhaps to its festivity by making a few remarks. [Laughter.] I therefore hope that I may have unanimous consent for that purpose.

Mr. LANGLEY. Mr. Speaker, I reserve the right to object. I would like to ask the gentleman if his remarks will be of a nonpartisan character.

Mr. CLAYTON. They will be of a nonpartisan character; yes, sir. [Laughter.]

Mr. LANGLEY. Upon what subject? [Laughter.]

Mr. CLAYTON. On the state of the Union, the good of the order, and the patriotism involved in the payment of war claims. [Laughter and applause.]

Mr. LANGLEY. I will not object to the discussion of any such subject.

Mr. CLAYTON. Mr. Speaker, do I understand that I have unanimous consent?

The SPEAKER pro tempore. The Chair is not authorized in the absence of a quorum to do anything more than to execute the orders of the House.

Mr. LANGLEY. Mr. Speaker, a parliamentary inquiry. Will the gentleman be ordered to be arrested if he proceeds to speak without anybody's consent? [Laughter.]

The SPEAKER pro tempore. The Chair will not rule until such a situation arises. When such an incident occurs and a point of order is made the Chair will pass upon it.

Mr. CLAYTON. Mr. Speaker, in the absence of an express ruling from the Chair, I shall take it for granted that I have the permission of the House to proceed. [Laughter and applause.]

Mr. Speaker, this is a serious occasion. It promises to be as serious as that celebrated filibuster when Mr. Butler of Missouri was turned out of this House by the party then in control of this House—and, thank God, soon to cease its control. [Cries of "Oh!" "Oh!" and "Regular order!"] Hear me for my cause, and be silent that you may hear, and believe me for mine honor, in order that you may pass a just war-claims bill. [Laughter and cries of "Good!"]

Mr. Speaker, the last bill of the character of the two omnibus claims bills now pending before the House that passed the Congress was considered in February, 1905. Since that day Congress has met and Congress has carried on the other legislation of the country and adjourned without passing a measure of this character, which the dictates of justice require. Now, it

has come to pass that we have, from the Committee on War Claims, upward of \$750,000, in round numbers, of just adjudicated war claims, passed on by the Court of Claims, said to be honest, said to be proper and lawful, and such as the conscience of the country demands shall be paid.

Mr. PRINCE. Mr. Speaker, does the gentleman yield for a question?

Mr. CLAYTON. I yield for a question, certainly. The gentleman was courteous enough to participate in giving me unanimous consent.

Mr. PRINCE. I would like to ask what does the gentleman think of the French spoliation claims. [Laughter.]

Mr. CLAYTON. Mr. Speaker, I will get through with one subject at a time. [Laughter and applause.] There were people who were interested in the French spoliation claims, I may say, many years gone by, but they have been so long dead and have been succeeded by so many generations of heirs that perhaps the French spoliation claims may wait a little bit longer. [Laughter.] But these \$750,000 of just and adjudicated war claims are modern claims about which there is no dispute. These claims were referred to a court deliberately created by a solemn act of Congress. The evidence was heard, the law was expounded, and the findings on the law and facts were returned to Congress pursuant to your resolution. These claims have been from year to year embodied in a bill by the War Claims Committee and reported to the House, and yet session after session of Congress has passed and no action has been taken upon them.

Now, I appeal to gentlemen not to treat this as a matter of levity. You take it throughout the country—North and East and South, but for the most part in the South, for the South suffered more from the ravages of the Civil War than any other section of the country—and you will find that these claims are held in part by widows and other people sadly in need of the comforts of life. Many others are for the payment of church property, and some are for the payment of property of the Masonic order and other benevolent fraternities.

I can take you South and to other parts of the Union and can show you into homes of some of these claimants where once affluence abounded, where penury was unknown, and now there is abject poverty. And these claims, long deferred, are a reflection upon the sense of justice and the sense of fairness of our Government, and it is a shame upon the good conscience of our common country to longer delay their payment. [Applause.] Gentlemen, let us not make a partisan matter of this. You can read the court's findings, the reports of your committee, and you will know, if you do not already know, that these claims ought to be paid and that we ought to pass this bill to-night.

Mr. RICHARDSON. Will the gentleman yield?

Mr. CLAYTON. Certainly.

Mr. RICHARDSON. I would like to call the gentleman's attention, in that connection, to what the President of the United States said:

I invite the attention of Congress to the great number of claims which at the instance of Congress have been considered by the Court of Claims and decided to be valid claims against the Government. The delay that occurs in the payment of the money due under the claims injures the reputation of the Government as an honest debtor, and I earnestly recommend that these claims which come to Congress with the judgment and approval of the Court of Claims be promptly paid.

Mr. CLAYTON. And that is a just and patriotic utterance, and every man in this House ought to indorse it by enacting this bill into law. [Applause.]

Mr. Speaker, this matter ought not to be treated lightly. It ought not to be treated as a matter of partisanship. I may recall what was said to me to-day by one of the most accomplished and one of the fairest Members of this House. He is a Republican of service, ability, and experience. He told me that in a matter recently brought to his attention by one of his constituents who sought his advice, where the Government proposed to be a party and his constituent the other party to a business transaction, he said to his constituent, "Beware; do not go into a business transaction with the Government unless you are sure to have it in writing and have double assurance that you will be paid. For," he said, "however just your claim may be against the Government, however it may appeal to the honesty and conscience of men, and even if you have it in such shape where you have a writing and assurance, you may depend upon it that, after you are dead and gone, your children or your grandchildren may get a part of what is due you; but most likely you will never live to see the day that your claim will be paid." [Applause.]

Deferred payment of these claims is a reflection on the Government. It has shocked the conscience of the Chief Executive of our country. Gentlemen, are we to trifle with the right and just claims of individuals? Every day, nearly, we recognize the



just claims of men to the bounty of the Government. We say the Government ought to be generous to the old soldiers, disabled on account of war, and Congress has been most generous. But, Mr. Speaker, there is a principle higher than generosity, and that is justice. [Applause.] And the Government ought always to be just before it is generous, or at least as just as generous. Let us be just to these people and pay these claims so that the Government may no longer have the stigma placed upon its fair name, so that no longer it will be necessary for the Chief Magistrate of the Nation to urge Congress to do its duty in this particular. [Applause.]

Mr. CARLIN. Will the gentleman yield?

Mr. CLAYTON. Certainly.

Mr. CARLIN. I would like to hear the gentleman's views upon an assertion that has been frequently made in the House that it is always in the power of the majority of the House to legislate when it cared to do so.

Mr. CLAYTON. I am afraid that I shall trespass on the domain of partisan politics if I enter into that subject. If I should express an opinion, I might indulge in some strictures against the Members who have inaugurated and conducted this filibuster to-night. I would rather instead of criticizing them for what they have done appeal to their sense of justice and fairness and right to let us take up the war-claims bill and pass it here and now. I thank you for your kind attention. [Applause.]

Mr. RUCKER of Missouri. Mr. Speaker—

Mr. MANN. Mr. Speaker, I make the point of order that no debate can take place in the House in the absence of a quorum.

Mr. RUCKER of Missouri. Mr. Speaker, I would like to answer a few things that the gentleman from Alabama [Mr. CLAYTON] said a few moments ago.

Mr. MANN. We ought to have a quorum in order that the gentleman may do it.

The SPEAKER pro tempore. The point of order being made, the Chair must sustain it. Debate is not in order in the absence of a quorum.

Mr. RUCKER of Missouri. Mr. Speaker—

Mr. MANN. Mr. Speaker, I demand the regular order.

Mr. RUCKER of Missouri. Oh, the gentleman does not want to do that.

Mr. MANN. I do want to do it.

Mr. RUCKER of Missouri. Do you? Well, do it and do it again. Mr. Speaker—

Mr. CLARK of Florida. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. CLARK of Florida. I would like to ask if there is not now a quorum present.

The SPEAKER pro tempore. The roll call does not disclose a quorum.

Mr. CLARK of Florida. Mr. Speaker, I move that we proceed with the reading of the bill.

The SPEAKER pro tempore. The Chair is unable to entertain that motion in the absence of a quorum.

Mr. UNDERWOOD. Mr. Speaker—

The SPEAKER pro tempore. For what purpose does the gentleman rise?

Mr. UNDERWOOD. I rise to inquire whether a quorum has appeared.

The SPEAKER pro tempore. The Chair is informed that it has not.

Mr. RUCKER of Missouri. Mr. Speaker, I rose about 15 minutes ago, more or less, to ask a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. RUCKER of Missouri. Mr. Speaker, I have just had that inquiry partly answered by the Chair stating that a quorum is not present.

The SPEAKER pro tempore. That is correct.

Mr. RUCKER of Missouri. May I inquire, if it is proper, how many Members we lack of having a quorum?

The SPEAKER pro tempore. The Chair is informed by the Clerk that we are still 20 short of a quorum.

Mr. RUCKER of Missouri. Mr. Speaker, the question I am trying to get at is this: The process of the House is suspended, held up in the air, strung up until we get those 20, is it not? Is that true?

The SPEAKER pro tempore. Under the rules it is impossible to transact business without a quorum, the absence of a quorum having been ascertained.

Mr. RUCKER of Missouri. In other words, when there is an absence of a quorum and a gentleman makes the point and demands a roll call and the roll call discloses there is not a quorum present, we can not do a darned thing but talk. [Applause and laughter.]

Mr. STANLEY. Mr. Speaker—

The SPEAKER pro tempore. For what purpose does the gentleman from Kentucky rise?

Mr. STANLEY. To know whether I am here or not. [Laughter.]

The SPEAKER pro tempore. The Chair is informed by the Clerk that the gentleman is here. [Laughter.]

Mr. CLARK of Florida. Mr. Speaker—

The SPEAKER pro tempore. For what purpose does the gentleman rise?

Mr. CLARK of Florida. To make a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. CLARK of Florida. I would like to know whether the record shows that the gentleman from Illinois [Mr. MANN] is present.

The SPEAKER pro tempore. That is hardly a parliamentary inquiry.

Mr. MANN. Mr. Speaker, I answered to the roll, and I doubt whether the gentleman from Florida did.

Mr. RUCKER of Missouri. Mr. Speaker—

The SPEAKER pro tempore. For what purpose does the gentleman rise?

Mr. RUCKER of Missouri. I rise to state to the Chair that I have a very important message from an old soldier who lives in Illinois, which I would like to deliver to this House if I can have two or three minutes.

Mr. MANN. Mr. Speaker, I demand the regular order.

Mr. RUCKER of Missouri. Mr. Speaker, the trouble about it is if there is a quorum here we are going to be so busy that I will not have time to talk. I want only about two or three minutes. There is no politics in it and no personalities, just a clear statement of fact.

Mr. KENDALL. Mr. Speaker, I demand the regular order.

Mr. RUCKER of Missouri. Do I understand I have consent to speak?

Mr. MANN. Not exactly.

Mr. HEFLIN. Mr. Speaker, a parliamentary inquiry. How many Members are present?

The SPEAKER pro tempore. The Chair is informed that there are about 16 less than a quorum.

Mr. HEFLIN. Mr. Speaker, I ask the Chair how many Members are present. How many does the roll show are present?

The SPEAKER pro tempore. The Chair is informed that the roll call shows that 181 gentlemen are now present.

Mr. RUCKER of Missouri. Mr. Speaker, I want to tell the House about an old soldier. I want to call attention to the fact that an old soldier by the name of Francis M. Shepherd, who used to live in the same State that Lincoln once lived in, and in which the gentleman from Illinois now lives, when the war came on—

Mr. MANN. Mr. Speaker, I demand the regular order.

Mr. RUCKER of Missouri. Mr. Speaker, there is no regular order, except to let the gentleman take his seat [laughter] and let me have the floor for about two minutes, and then I will sit down.

Mr. MANN. After we get a quorum, Mr. Speaker, I will ask unanimous consent that the gentleman have 20 minutes.

Mr. RUCKER of Missouri. This old soldier for four years followed the flag of his country. [Applause and cheers.] Mr. Speaker, can not we have better order? I will stand here all night, if I have to, to make my speech.

If you gentlemen will give me a few minutes I will tell you a very interesting story. This old man—

Mr. BROUSSARD. How old is he?

Mr. RUCKER of Missouri. He is old enough to have fought for nearly four years in the service of his country. He is to-night, in all probability, on a bed of sickness. For 50 years he has pleaded with the Government that he fought to perpetuate and preserve—

Mr. MANN. Mr. Speaker, I demand the regular order. There will be time enough for debate when we have a quorum.

Mr. RUCKER of Missouri. Will not the gentleman himself keep in regular order for a minute or two?

Mr. MANN. I will; and that is more than the gentleman from Missouri will do.

The SPEAKER pro tempore. In the absence of a quorum debate is not in order.

Mr. RUCKER of Missouri. I have the floor, and the gentleman from Illinois [Mr. MANN] can not take me off. The Sergeant at Arms is away hunting up absentees, and, Mr. Speaker, I have the floor, and, as I have assurances of protection from gentlemen on that side, I am going to hold it.

The SPEAKER pro tempore. Under the rule, debate is not in order.

Mr. RUCKER of Missouri. I am not going to debate. I am only relating a narrative.

Mr. MANN. I hope the gentleman will retain this interesting story until we have a quorum, and then he will get his full measure of appreciation.

Mr. RUCKER of Missouri. While this old man was performing his duty faithfully and well, with courage and patriotism, his general took from him \$830 in money and confiscated \$454 of it, and the Government has had the balance ever since.

He took it from this man while he had a musket on his shoulder and a knapsack on his back, and the Government has used part of the money and has had the rest of it in its possession for nearly 50 years. We are now trying to get it back. The reason it has not been paid back is because the Court of Claims finds, among other things, that the old soldier did not prove that he had not won it in a game.

But, Mr. Speaker, this brings me back again to that old soldier. [Laughter.] The time will come, if the gentleman from Illinois [Mr. MANN] can be suppressed long enough, when we will get to this bill, and I am going to ask this House to do justice to that old soldier. I do not believe the committee in reporting this bill has done him justice. It recommends only \$376 instead of \$830, and the reason alleged for it is that some pretended or sham tribunal held a kind of inquest on this man's case and came to the conclusion that \$454 had been won in a game called "chuck-a-luck."

I want to say the Government, according to its own records, took from this old soldier \$454, even money, on the theory that he had won it in some kind of a game. They did not return one dollar to the man who is alleged or supposed to have lost it, but the general of that regiment ordered the money to be expended for the expense of the company, and the records so show. The Federal officer in charge spent this soldier's money, or caused it to be spent, to supply the troops with necessary supplies, and the Government now refuses to refund it because it is supposed the old soldier won it in a game.

The Government used the tainted money, but refuses to pay it back. And let me say—most of you gentlemen are lawyers and those who are not lawyers have been on juries or around court rooms—50 years ago this old man, when he was told that \$454 of his money was to be confiscated by the Government because it had been won in a game, emphatically denied the charge, and when his officer offered to pay him back \$376 he at the time positively refused to accept it for the reason that the entire \$830 was his, honestly acquired, and he wanted all or none. He said to the general of his regiment, he said to all of his officers, that the charge was false; that every dollar of this money was honestly earned by him and that he would not accept one dollar unless they refunded it all, and for 50 years he has stuck to that, and you gentlemen know that is part of the res gesta, and to my mind conclusively refutes the charge. That man's statement was true then, as the affidavit he made a few days ago on his sick bed is true. And, gentlemen of this House, I am going to ask you to stand by this meritorious claim and do full justice, so long delayed, to this claimant.

Gentlemen, I am not pleading by reason of personal friendship; I am pleading because it is my duty to represent the honest constituency in the district I represent, and this old man, whom I have known for 30 years—

Mr. CLARK of Florida. Mr. Speaker, I make the point that a quorum is not present.

The SPEAKER pro tempore. The Chair is informed a quorum is not present.

Mr. CLARK of Florida. I move a call of the House. Is it in order to move a call of the House to determine whether there is a quorum present or not?

The SPEAKER pro tempore. We are in the midst of a call now.

Mr. RUCKER of Missouri. This man is old, infirm, and impoverished, and will not live, in all human probability, until Congress assembles again. I plead with this House at the present time to let me send to him by the electric wire the glad tidings that this House to-day surrenders back to him the money that it took from him 50 years ago; and this amount of money, \$850, let me say to you, let me give you my absolute assurance, will meet his necessary expenses until the angel of death summons him across the Great Divide.

Mr. Speaker, I thank you for the courtesy which you have shown me in permitting me to address the House. [Loud applause.]

The SPEAKER pro tempore. The total membership of this House, if all districts were represented, would be 391. But by reason of death there are six districts not represented, so the membership at present is 385, of which number 193 con-

stitutes a quorum. There are now 193 Members present—a quorum.

The following Members failed to answer to their names:

Alexander, Mo.	Flood, Va.	Kronmiller	Plumley
Alexander, N. Y.	Foelker	Lafean	Pointexter
Allen	Fornes	Langham	Pray
Andrus	Foss	Lenroot	Ransdell
Ansberry	Foster, Vt.	Lindsay	Reid
Anthony	Fowler	Livingston	Rhinock
Barchfeld	Fuller	Longworth	Riordan
Barclay	Gaines	Loud	Roberts
Bartlett, Ga.	Gallagher	Loudenslager	Roddenberry
Bartlett, Nev.	Gardner, Mass.	Lowden	Rodenberg
Bates	Gardner, Mich.	Lundin	Sabath
Bennet, N. Y.	Garner, Pa.	McCall	Scott
Boutell, Ky.	Gill, Md.	McCreary	Sharp
Bowers	Gill, Mo.	McCredie	Sheffield
Bradley	Gillett	McDermott	Sherley
Burke, Pa.	Glass	McGuire, Okla.	Slayden
Burleigh	Goebel	McKinlay, Cal.	Small
Burleson	Goldfogle	McKinley, Ill.	Smith, Cal.
Calder	Goulden	McMorran	Smith, Mich.
Campbell	Graham, Pa.	Madden	Smith, Tex.
Capron	Gregg	Madison	Sparkman
Cassidy	Griest	Malby	Sperry
Clark, Mo.	Hamer	Martin, S. Dak.	Stephens, Tex.
Cocks, N. Y.	Hamill	Miller, Minn.	Stevens, Minn.
Cole	Hamilton	Millington	Sturgiss
Conry	Hardwick	Mondell	Sulzer
Cooper, Pa.	Haugen	Moon, Pa.	Swasey
Coudrey	Havens	Moore, Pa.	Talbot
Covington	Hayes	Moore, Tex.	Tawney
Cox, Ohio	Heald	Morehead	Taylor, Ohio
Craig	Henry, Conn.	Morrison	Townsend
Cravens	Hill	Morse	Vreeland
Creager	Hinshaw	Moxley	Wallace
Crow	Hitchcock	Mudd	Wanger
Dalzell	Howard	Murdock	Washburn
Denby	Hubbard, W. Va.	Murphy	Weeks
Dies	Huff, Pa.	Needham	Weisse
Dodds	Hull, Iowa	Nelson	Wheeler
Douglas	Humphrey, Wash.	Nicholls	Wiley
Drapar	James	Norris	Willett
Dupré	Jamieson	O'Connell	Wilson, Pa.
Durey	Johnson, Ohio	Palmer, A. M.	Wood, N. J.
Esch	Joyce	Palmer, H. W.	Woods, Iowa
Fairchild	Kelfer	Parker	Woodyard
Fassett	Kennedy, Ohio	Parsons	Young, Mich.
Fish	Kinkaid, Nebr.	Patterson	Young, N. Y.
Fitzgerald	Kinkaid, N. J.	Payne	
	Knowland	Peters	

Mr. UNDERWOOD. Mr. Speaker, I move that the House dispense with further proceedings under the call.

The motion was agreed to.

The SPEAKER pro tempore. The Doorkeeper will open the doors.

Mr. UNDERWOOD. Mr. Speaker, I move that the House take a recess until to-morrow morning at 11 o'clock.

Mr. MANN. I demand the regular order, Mr. Speaker.

I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of bills on the Private Calendar in order to-day.

The SPEAKER pro tempore. The Chair is of the opinion that the motion to go into Committee of the Whole House is a preferential motion.

Mr. PRINCE. Mr. Speaker, I make a point of order against the motion of the gentleman from Illinois [Mr. MANN].

The SPEAKER pro tempore. The Chair overrules the point of order.

Mr. PRINCE. Just wait a moment, Mr. Speaker, for this suggestion.

The SPEAKER pro tempore. The Chair will hear the gentleman if he so desires.

Mr. PRINCE. The gentleman from Illinois [Mr. MANN] made a motion to go into the Committee of the Whole House on the state of the Union.

Mr. MANN. Committee of the Whole House.

Mr. PRINCE. So I make my point of order and insist upon it.

Mr. MANN. For consideration of business on the Private Calendar in order to-day.

Mr. PRINCE. I do not object to that motion. That is right. We want things done in the right way.

The SPEAKER pro tempore. The point of order of the gentleman from Illinois [Mr. PRINCE] would be sustained as to a motion to go into a Committee of the Whole House on the state of the Union, but the Chair understands the motion of his colleague [Mr. MANN] is to go into the Committee of the Whole House for consideration of bills on the Private Calendar.

The question is on the motion of the gentleman from Illinois [Mr. MANN].

The question was taken, and the Chair announced that the noes seemed to have it.

Mr. CARLIN. Division, Mr. Speaker.

The House divided; and there were—ayes 11, noes 98.

So the motion was rejected.



Mr. UNDERWOOD. Mr. Speaker, I move that the House do now take a recess.

Mr. STAFFORD. Mr. Speaker, I make the point that no quorum is present.

Mr. UNDERWOOD. Mr. Speaker, I make the point of order that that is dilatory. We have just had a call of the House, which has shown that a quorum is present.

The SPEAKER pro tempore. The call of the House just had showed that a quorum was present. The Chair sustains the point of order of the gentleman from Alabama [Mr. UNDERWOOD] that that motion is dilatory.

Mr. UNDERWOOD. I move, Mr. Speaker, that the House take a recess until to-morrow morning at 10 o'clock.

Mr. MANN. Mr. Speaker, I demand the regular order, and I move that the House dispense with the proceedings in order to-day on the Private Calendar.

The SPEAKER pro tempore. The Chair thinks that the motion of the gentleman from Illinois [Mr. MANN] is in order. The gentleman from Illinois moves and desires to dispense with business in order on the Private Calendar.

The question was taken; and on a division there were—ayes 38, noes 120.

Mr. MANN. Mr. Speaker, I make the point of order that there is no quorum present, as disclosed by the vote.

The SPEAKER pro tempore. The gentleman from Illinois makes the point of order that there is no quorum present, as disclosed by the vote.

Mr. UNDERWOOD. Mr. Speaker, I make the point of order that that is dilatory.

Mr. MANN. Mr. Speaker, it is never dilatory to make the point of order that there is no quorum present.

Mr. CLAYTON. Will not the Speaker kindly count, to ascertain a quorum?

The SPEAKER pro tempore (after counting). One hundred and eighty present—not a quorum. A quorum having failed on this vote, the doors will be closed, the Sergeant at Arms will bring in absent Members, and the Clerk will call the roll. Those in favor of the motion of the gentleman from Illinois, when their names are called, will answer "yea;" those opposed will answer "nay." Those not voting will answer "present."

Mr. CLAYTON. Mr. Speaker, what is the question?

The SPEAKER pro tempore. The question is on the motion of the gentleman from Illinois [Mr. MANN] to dispense with the business on the Private Calendar in order under the rules to-day.

Mr. CLAYTON. Patriots, vote "No!" [Laughter and applause.]

The question was taken; and there were—yeas 29, nays 145, answered "present" 19, not voting 191, as follows:

## YEAS—29.

Burke, S. Dak.	Howell, Utah	Moxley	Steenerson
Driscoll, M. E.	Howard	Norris	Sterling
Ellis	Hubbard, Iowa	Nye	Tilson
Englebright	Kahn	Olmsted	Volstead
Fordney	Kennedy, Iowa	Parker	Wilson, Ill.
Gardner, N. J.	Lawrence	Rosenberg	
Graff	Mann	Smith, Iowa	
Hanna	Miller, Kans.	Stafford	

## NAYS—145.

Adair	Dixon, Ind.	Jones	Pou
Adamson	Driscoll, D. A.	Keliber	Pray
Alken	Edwards, Ga.	Kendall	Prince
Ames	Edwards, Ky.	Kitchin	Pujo
Anderson	Ellerbe	Kopp	Rainey
Austin	Estopinal	Korbly	Randell, Tex.
Beall, Tex.	Ferris	Küstermann	Rauch
Bell, Ga.	Finley	Lamb	Richardson
Borland	Floyd, Ark.	Langham	Robinson
Brantley	Focht	Langley	Rothermel
Broussard	Garner, Tex.	Latta	Rucker, Colo.
Burgess	Garrett	Law	Rucker, Mo.
Burnett	Gillespie	Lee	Saunders
Byrns	Godwin	Legare	Shackelford
Calderhead	Good	Lever	Sheppard
Candler	Gordon	Lively	Sherwood
Cantrill	Grant	Lloyd	Sims
Carlin	Greene	McHenry	Sisson
Cary	Hamlin	McKinney	Small
Chapman	Hardy	McLachlan, Cal.	Southwick
Clark, Fla.	Harrison	McLaughlin, Mich.	Spight
Clayton	Haugen	Macon	Stanley
Cline	Hawley	Maguire, Nebr.	Sulloway
Collier	Hay	Martin, Colo.	Taylor, Ala.
Cooper, Wis.	Heflin	Massey	Taylor, Colo.
Cowles	Helm	Maynard	Thistlewood
Cox, Ind.	Henry, Tex.	Mays	Thomas, Ky.
Craig	Higgins	Mitchell	Thomas, N. C.
Cullop	Hobson	Moon, Tenn.	Tou Velle
Davidson	Hollingsworth	Morgan, Mo.	Turnbull
Davis	Houston	Morgan, Okla.	Underwood
Dawson	Hughes, Ga.	Moss	Watkins
Dent	Hull, Tenn.	Nicholls	Webb
Denver	Humphreys, Miss.	Oldfield	Wickliffe
Dickinson	Jamieson	Padgett	
Dickson, Miss.	Johnson, Ky.	Page	
Diekema	Johnson, S. C.	Pearre	

## ANSWERED "PRESENT"—19.

Andrus	Cole	Hammond	Pickett
Barnard	Crumpacker	Hill	Simmons
Bingham	Currier	Hughes, N. J.	Swasey
Booher	Foster, Ill.	Knapp	Taylor, Ohio
Butler	Graham, Ill.	Lindbergh	

## NOT VOTING—191.

Alexander, Mo.	Esch	Keller	Peters
Alexander, N. Y.	Fairchild	Kennedy, Ohio	Plumley
Allen	Fassett	Kinkaid, Nebr.	Poindexter
Ansberry	Fish	Kinkaid, N. J.	Pratt
Anthony	Fitzgerald	Knowland	Ransdell, La.
Ashbrook	Flood, Va.	Kronmiller	Reeder
Barchfeld	Foelker	Lafean	Reid
Barclay	Fornes	Lenroot	Rhinock
Barnhart	Foss	Lindsay	Riordan
Bartholdt	Foster, Vt.	Livingston	Roberts
Bartlett, Ga.	Fowler	Longworth	Roddenberry
Bartlett, Nev.	Fuller	Loud	Sabath
Bates	Gaines	Loudenslager	Scott
Bennet, N. Y.	Gallagher	Lowden	Sharp
Bennett, Ky.	Gardner, Mass.	Lundin	Sheffield
Boehne	Gardner, Mich.	McCall	Sherry
Boutell	Garner, Pa.	McCreary	Slayden
Bowers	Gill, Md.	McCredie	Slemp
Bradley	Gill, Mo.	McDermott	Smith, Cal.
Burke, Pa.	Gillett	McGuire, Okla.	Smith, Mich.
Burleigh	Glass	McKinlay, Cal.	Smith, Tex.
Burleson	Goebel	McKinley, Ill.	Snapp
Byrd	Goldfogle	McMorran	Sparkman
Calder	Goulden	Madden	Sperry
Campbell	Graham, Pa.	Madison	Stephens, Tex.
Capron	Gregg	Malby	Stevens, Minn.
Carter	Griest	Martin, S. Dak.	Sturgiss
Cassidy	Guernsey	Miller, Minn.	Sulzer
Clark, Mo.	Hamer	Millington	Talbot
Cocks, N. Y.	Hamill	Mondell	Tawney
Conry	Hamilton	Moon, Pa.	Thomas, Ohio
Cooper, Pa.	Hardwick	Moore, Pa.	Townsend
Coudrey	Havens	Moore, Tex.	Vreeland
Covington	Hayes	Morehead	Wallace
Cox, Ohio	Heald	Morrison	Wanger
Cravens	Henry, Conn.	Morse	Washburn
Creager	Hinshaw	Mudd	Weeks
Crow	Hitchcock	Murdock	Weisse
Dalzell	Howard	Murphy	Wheeler
Denby	Howell, N. J.	Needham	Wiley
Dies	Hubbard, W. Va.	Nelson	Willett
Dodds	Huff	O'Connell	Wilson, Pa.
Douglas	Hughes, W. Va.	Olcott	Wood, N. J.
Draper	Hull, Iowa	Palmer, A. M.	Woods, Iowa
Dupre	Humphrey, Wash.	Palmer, H. W.	Woodyard
Durey	James	Parsons	Young, Mich.
Dwight	Johnson, Ohio	Patterson	Young, N. Y.
Elvins	Joyce	Payne	

So the motion to dispense with private business in order on Friday was rejected.

During the roll call,

Mr. GARRETT. Mr. Speaker, I make the point of order that this roll call is not in order. I venture to call the attention of the Chair to section 2968, volume 4, of Hinds' Precedents. It reads thus:

When a Committee of the Whole rises and reports the lack of a quorum, the sitting of the committee is resumed upon the appearance of a quorum.

Now, I understand the situation to be this: The Committee of the Whole rose and reported to the House the lack of a quorum.

The SPEAKER pro tempore. The Chair thinks it is not in order to interrupt a roll call for the making of a point of order.

Mr. GARRETT. But, Mr. Speaker, the point of order that I am making is that this roll call itself is not in order.

The SPEAKER pro tempore. The Chair thinks it is too late to make that point of order after the roll call has been begun, or that it can not be entertained until after the roll is completed.

Mr. HEFLIN. It is never too late to make a point of order.

Mr. GARRETT. May I invite the attention of the Chair to that section of the Precedents? I understand the situation to be this: The Committee of the Whole rose and reported to the House the absence of a quorum. Thereupon there was a call of the House, and a quorum was ascertained to be present. Now, I make the point that the regular order, under the Precedents, was that there was nothing in order except a motion to adjourn, and that it was the duty of the Chair then immediately to declare that the committee resumed its session and that this call is not in order. I read this, Mr. Speaker:

On March 23, 1842, the Committee of the Whole House—

The SPEAKER pro tempore. The Chair thinks that it is not proper for the Chair, under the rule, to permit the roll call to be interrupted after it has begun. The Clerk will proceed.

The Clerk called the name of Mr. GILL of Maryland.

Mr. GARRETT. May I ask this, Mr. Speaker? Do I understand—

Mr. MANN. I suggest to the gentleman that he ask unanimous consent to suspend the rules, for the purpose of stating his point of order.

The SPEAKER pro tempore. The Chair declines to entertain the point of order in the midst of a roll call.

Mr. GARRETT. The Speaker does not overrule it then, but merely declines to entertain it during a roll call?

The SPEAKER pro tempore. The Chair does not pass upon it, but declines to entertain it in the midst of a roll call.

The Clerk proceeded with the calling of the roll.

Mr. GARRETT. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. GARRETT. Does the roll call disclose the presence of a quorum?

The SPEAKER pro tempore. The Chair is informed that it does not.

Mr. MANN. Mr. Speaker, has the calling of the roll been completed?

The SPEAKER pro tempore. It has.

Mr. MANN. May I ask for the announcement of the result?

The SPEAKER pro tempore. A quorum is not yet present.

Mr. MANN. That is what I wish to ascertain. I thought, perhaps, the gentleman from Alabama would move a call of the House. If he does not, I shall move to adjourn.

Mr. UNDERWOOD. As I understand the order under which we are proceeding, a call of the House has already been ordered.

Mr. MANN. There has been no direction to bring in absentees, no direction for a warrant to be issued.

Mr. UNDERWOOD. As I understand it, we are proceeding now under the order for an automatic call of the House.

The SPEAKER pro tempore. We are.

Mr. UNDERWOOD. And the Speaker has already instructed the Sergeant at Arms to bring in absentees.

The SPEAKER pro tempore. He has.

Mr. MANN. I thought perhaps the gentleman would wish to repeat his performance, and have a warrant issued.

Mr. UNDERWOOD. I will trust the Sergeant at Arms to bring in the absentees.

Several Members appeared and voted.

The SPEAKER pro tempore. On this vote the yeas are 29 and the nays are 145, "present" 19, making in all 193 Members present—a quorum. The motion is not agreed to, and the Door-keeper will open the doors.

#### ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WILSON of Illinois, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bills:

H. R. 21965. An act for the relief of Mary Wind French;

H. R. 25569. An act to authorize a patent to be issued to Margaret Padgett for certain public lands therein described;

H. R. 27069. An act to relinquish the title of the United States in New Madrid location and survey No. 2880;

H. R. 30571. An act permitting the building of a dam across Rock River at Lyndon, Ill.;

H. R. 31066. An act to authorize the Secretary of Commerce and Labor to purchase certain lands for lighthouse purposes;

H. R. 31166. An act to authorize the Secretary of Commerce and Labor to exchange a certain right of way;

H. R. 31353. An act for the relief of F. W. Mueller;

H. R. 31600. An act to authorize the erection upon the Crown Point Lighthouse Reservation, N. Y., of a memorial to commemorate the discovery of Lake Champlain;

H. R. 31657. An act to authorize United States marshals and their respective chief office deputies to administer certain oaths;

H. R. 31925. An act authorizing the building of a dam across the Savannah River at Cherokee Shoals;

H. R. 31926. An act permitting the building of a dam across Rock River near Byron, Ill.;

H. R. 31931. An act authorizing the Ivanhoe Furnace Corporation, of Ivanhoe, Wythe County, Va., to erect a dam across New River;

H. R. 32473. An act for the relief of the sufferers from famine in China;

H. R. 31922. An act to authorize the Virginia Iron, Coal & Coke Co. to build a dam across the New River near Foster Falls, Wythe County, Va.;

H. R. 31800. An act permitting the building of a wagon and trolley-car bridge across the St. Croix River between the States of Wisconsin and Minnesota;

H. R. 31662. An act granting five years' extension of time to Charles H. Cornell, his assigns, assignees, successors, and grantees, in which to construct a dam across the Niobrara River on the Fort Niobrara Military Reservation, and to construct electric light and power wires and telephone line and trolley or

electric railway, with telegraph and telephone lines, across said reservation;

H. R. 31056. An act to ratify a certain lease with the Seneca Nation of Indians;

H. R. 27837. An act to amend the provisions of the act of March 3, 1885, limiting the compensation of storekeepers and storekeeper-gaugers in certain cases to \$2 a day, and for other purposes;

H. R. 24123. An act for the relief of the legal representatives of William M. Wightman, deceased; and

H. R. 11798. An act to enable any State to cooperate with any other State or States or with the United States for the protection of the watersheds of navigable streams, and to appoint a commission for the acquisition of lands for the purpose of conserving the navigability of navigable rivers.

#### RECESS.

Mr. UNDERWOOD. Mr. Speaker, I move that the House take a recess until to-morrow morning at 11 o'clock.

The question was taken, and the motion was agreed to; accordingly (at 9 o'clock and 25 minutes p. m.) the House took a recess until to-morrow, Saturday, February 18, at 11 o'clock a. m.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of War submitting recommendation of a credit to the accounts of Lieut. Col. I. W. Littell, United States Army (H. Doc. No. 1385); to the Committee on Appropriations and ordered to be printed.

2. A letter from the Secretary of War, transmitting the claims of the Morse Dry Dock & Repair Co. and the John N. Robins Co. (H. Doc. No. 1386); to the Committee on Appropriations and ordered to be printed.

3. A letter from the Acting Secretary of Commerce and Labor, transmitting a list of papers no longer needed in the business of the department (H. Doc. No. 1387); to the Committee on Disposition of Useless Papers and ordered to be printed.

4. A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of War submitting an estimate of appropriation for a monument at Guilford Court House (H. Doc. No. 1388); to the Committee on Appropriations and ordered to be printed.

5. A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Civil Service Commission submitting an estimate of appropriation for traveling expenses (H. Doc. No. 1389); to the Committee on Appropriations and ordered to be printed.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. DENT, from the Committee on Military Affairs, to which was referred the joint resolution of the Senate (S. J. Res 140) authorizing the Secretary of War to loan certain tents for the use of the Confederate Veterans' Reunion to be held at Little Rock, Ark., in May, 1911, reported the same without amendment, accompanied by a report (No. 2186), which said joint resolution and report were referred to the Committee of the Whole House on the state of the Union.

Mr. MONDELL, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 32080) to provide for the leasing of coal lands in the District of Alaska, and for other purposes, reported the same with amendment, accompanied by a report (No. 2190), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HUMPHREY of Washington, from the Committee on the Merchant Marine and Fisheries, to which was referred the bill of the House (H. R. 31689) to provide American registers for the steamers *San Jose*, *Limon*, *Esparta*, *Cartago*, *Parismina*, *Heredia*, *Abangarez*, *Turrialba*, *Atenas*, *Almirante*, *Santa Marta*, *Metapan*, *Zacapa*, *Greenbrier*, *Peralta*, *La Senora*, and *Sizaola*, reported the same with amendment, accompanied by a report (No. 2187), which said bill and report were referred to the House Calendar.



## REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred sundry bills of the House, reported in lieu thereof the bill (H. R. 32822) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, accompanied by a report (No. 2182), which said bill and report were referred to the Private Calendar.

Mr. HULL of Iowa, from the Committee on Military Affairs, to which was referred the joint resolution of the House (H. J. Res. 291) authorizing the Secretary of War to receive for instruction at the Military Academy at West Point Mr. Melchor Batista, reported the same without amendment, accompanied by a report (No. 2184), which said resolution and report were referred to the Private Calendar.

Mr. OLCOTT, from the Committee on Naval Affairs, to which was referred the bill of the House (H. R. 10313) to provide for the appointment and retirement of late Ensign John Tracey Edson as lieutenant in the United States Navy, reported the same with amendment, accompanied by a report (No. 2185), which said bill and report were referred to the Private Calendar.

Mr. ROBERTS, from the Committee on Naval Affairs, to which was referred the bill of the Senate (S. 8603) to authorize the President of the United States to place upon the retired list of the United States Navy Surg. I. W. Kite with the rank of medical inspector, reported the same without amendment, accompanied by a report (No. 2188), which said bill and report were referred to the Private Calendar.

Mr. CRAIG, from the Committee on the Public Lands, to which was referred the bill of the Senate (S. 8736) providing for the releasing of the claim of the United States Government to arpent lot No. 44, in the old city of Pensacola, Fla., reported the same without amendment, accompanied by a report (No. 2193), which said bill and report were referred to the Private Calendar.

## ADVERSE REPORTS.

Under clause 2 of Rule XIII, adverse reports were delivered to the Clerk, and laid on the table, as follows:

Mr. MANN, from the Committee on Interstate and Foreign Commerce, to which was referred the resolution of the House (H. Res. 962) calling on the Secretary of Commerce and Labor for a copy of contract between the British Government and American Express Co., reported the same adversely, accompanied by a report (No. 2189), which said resolution and report were laid on the table.

Mr. McKINLEY of Illinois, from the Committee on Foreign Affairs, to which was referred the resolution of the House (H. Res. 977) requesting the President to furnish the House of Representatives certain information, reported the same adversely, accompanied by a report (No. 2191), which said resolution and report were laid on the table.

He also, from the same committee, to which was referred the concurrent resolution of the House (H. Con. Res. 60) for the annexation of Canada, reported the same adversely, accompanied by a report (No. 2192), which said resolution and report were laid on the table.

## PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. LIVINGSTON (by request): A bill (H. R. 32823) to reorganize the Patent Office; to the Committee on Patents.

By Mr. WATKINS: A bill (H. R. 32824) to authorize the city of Shreveport to construct a bridge across Red River; to the Committee on Interstate and Foreign Commerce.

## PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANDREWS: A bill (H. R. 32825) for the relief of Bicento Fresquez; to the Committee on Claims.

Also, a bill (H. R. 32826) for the relief of Jose Salazar; to the Committee on Claims.

By Mr. FASSETT: A bill (H. R. 32827) granting an increase of pension to Henry G. Tuthill; to the Committee on Invalid Pensions.

By Mr. HANNA: A bill (H. R. 32828) granting an increase of pension to John Torbenson; to the Committee on Invalid Pensions.

By Mr. KELIHER: A bill (H. R. 32829) granting a pension to Daniel O'Connell; to the Committee on Pensions.

By Mr. McKINLEY of Illinois: A bill (H. R. 32830) granting an increase of pension to Michael Welch; to the Committee on Invalid Pensions.

By Mr. MALBY: A bill (H. R. 32831) granting a pension to William P. West; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32832) granting an increase of pension to Leonard A. Wilson; to the Committee on Invalid Pensions.

By Mr. MARTIN of South Dakota: A bill (H. R. 32833) for the relief of Daniel Flick; to the Committee on Military Affairs.

By Mr. SHEFFIELD: A bill (H. R. 32834) granting an increase of pension to Maria Hanley; to the Committee on Invalid Pensions.

By Mr. TALBOTT: A bill (H. R. 32835) for the relief of the heirs of Thomas J. Benson, deceased; to the Committee on War Claims.

By Mr. TAYLOR of Colorado: A bill (H. R. 32836) granting public land to the city of Canon City, Colo., for public-park purposes; to the Committee on the Public Lands.

By Mr. BYRD: A bill (H. R. 32837) for the relief of the administrators of Joseph S. Rogers, deceased; to the Committee on War Claims.

By Mr. McGUIRE of Oklahoma: A bill (H. R. 32838) granting an increase of pension to Morton B. Chrisman; to the Committee on Invalid Pensions.

By Mr. MILLINGTON: Resolution (H. Res. 979) to compensate David J. Berger for extra services performed; to the Committee on Accounts.

By Mr. ENGLEBRIGHT: Resolution (H. Res. 980) of inquiry relative to action of Department of Agriculture against Hydro Electric Co., of California; to the Committee on the Public Lands.

## PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ANSBERRY: Petition of Association of Military Surgeons of Richmond, for Senate bill 6049, department of health; to the Committee on Agriculture.

Also, petition of Metal Trades Department, American Federation of Labor, of Washington, D. C., insisting that the battleship *New York* be built in a Government navy yard, in compliance with the law of 1910, and for eight-hour clause of naval appropriation bill; to the Committee on Naval Affairs.

Also, petition of Philadelphia Chamber of Commerce, for a parcels-post service; to the Committee on the Post Office and Post Roads.

Also, petition of business firms of Archbold, Ohio, against parcels-post system; to the Committee on the Post Office and Post Roads.

Also, petition of National Metal Trades Association, for legislation in line with Article IX of findings of the anthracite coal strike commission of 1902; to the Committee on the Judiciary.

By Mr. ASHBROOK: Petition of Emma Spencer and seven other citizens of Newark, Ohio, and Philadelphia Chamber of Commerce, against increase of postage on magazines; to the Committee on the Post Office and Post Roads.

By Mr. BENNET of New York: Petition of citizens of Washington, against language used by Judge Daniel Thew Wright in passing sentence on defendant Green; to the Committee on the Judiciary.

By Mr. BURKE of Pennsylvania: Petition of Chamber of Commerce of Pittsburg, for repeal of tax on oleomargarine; to the Committee on Agriculture.

By Mr. BURLEIGH: Petition of Aroostook County Pomona Grange, against Canadian reciprocity; to the Committee on Ways and Means.

By Mr. BUTLER: Petition of citizens of Pennsylvania, for eight-hour day and for the construction of the battleship *New York* in the Brooklyn Navy Yard; to the Committee on Naval Affairs.

By Mr. CALDER: Petition of business men of New York City, against increase of postage on magazines; to the Committee on the Post Office and Post Roads.

Also, petition of Philadelphia Chamber of Commerce, for legislation to secure in all kinds of transportation a maximum of

facilities and minimum of rates; to the Committee on Interstate and Foreign Commerce.

By Mr. CARY: Communication from the Metal Trades Department, American Federation of Labor, protesting against the proposed measure to have battleships built by private contractors; to the Committee on Naval Affairs.

By Mr. COWLES: Petition of citizens of North Carolina, against bill of Representative Andrews donating 300,000 acres of land to the Archbishop of Santa Fe, N. Mex.; to the Committee on the Territories.

By Mr. CULLOP: Petition of citizens of Sullivan County, Ind., against Senate bill 404, relative to Sunday observance in the District of Columbia; to the Committee on the District of Columbia.

By Mr. DRAPER: Petition of Chamber of Commerce of Tombstone, Ariz., against congressional action changing county seat removal legislation; to the Committee on the Territories.

By Mr. FOCHT: Petition of Commandery of Pennsylvania, Military Order of Loyal Legion of the United States, for House bill 32725, for removal of remains of Maj. Gen. Hancock from Norristown, Pa., to national cemetery at Arlington; to the Committee on Appropriations.

By Mr. FOSTER of Illinois: Petition of members of the Prairie View Methodist Episcopal Church, Fairview Methodist Episcopal Church, Seventh Day Baptist Church, Farina, Ill., and Congregational Church of Olney, Ill., for House bill 23641 and Senate bill 7528; to the Committee on Interstate and Foreign Commerce.

By Mr. FULLER: Petition of Barnard & Miller, Chicago, Ill., for Canadian reciprocity and tariff board; to the Committee on Ways and Means.

Also, petition of Philadelphia Chamber of Commerce, for extension of the parcels-post system; to the Committee on the Post Office and Post Roads.

Also, petition of Farnsworth & Son, of Oldtown, Ill., against the establishment of a parcels post; to the Committee on the Post Office and Post Roads.

Also, petition of A. H. Geighorn, Morris, Ill., for the Carter-Weeks bill concerning postal rates; to the Committee on the Post Office and Post Roads.

Also, petition of United Association of Plumbers and Steam Fitters, against increase of second-class postage rates; to the Committee on the Post Office and Post Roads.

Also, petition of Association of Military Surgeons, for a national department of health and for Senate bill 6049; to the Committee on the Judiciary.

Also, petition of Federal Labor Union, of Peru, Ill., against repeal of law for printing bonds, checks, and notes; to the Committee on Printing.

By Mr. GOEBEL: Petition of Price Hall Council, No. 210, Harmony Council, Addyston Council, Victor Council, and many others, Junior Order United American Mechanics, of Cincinnati, for House bill 15413; to the Committee on Immigration and Naturalization.

By Mr. GOULDEN: Petition of W. J. Thompson Co., New York City, and editors and publishers of newspapers of the Bronx Borough, New York City; to the Committee on the Post Office and Post Roads.

Also, petition of the Atlas Engraving Co., New York, and Paul Black, New York City, against increase of postage on magazines; to the Committee on the Post Office and Post Roads.

By Mr. HANNA: Petition of citizens of North Dakota, against repeal of duty on barley; to the Committee on Ways and Means.

Also, petition of residents of North Dakota on rural routes, for House bill 26791; to the Committee on the Post Office and Post Roads.

Also, petition of citizens of North Dakota, against the Burnham parcels-post bill; to the Committee on the Post Office and Post Roads.

By Mr. HENRY of Connecticut: Petition of Washington Camp No. 14, Patriotic Order Sons of America, Hartford, Conn., for House bill 15413; to the Committee on Immigration and Naturalization.

By Mr. HIGGINS: Petition of Highland County Grange, Plainfield Grange, and Wolf Den Grange, of Connecticut, for a parcels-post law; to the Committee on the Post Office and Post Roads.

By Mr. HOLLINGSWORTH: Petition of Updegraff (Ohio) Grange, No. 1427, Patrons of Husbandry, for a general parcels-post system; to the Committee on the Post Office and Post Roads.

By Mr. JAMES: Petition of citizens of Kentucky, for more stringent immigration laws; to the Committee on Immigration and Naturalization.

By Mr. KELIHER: Petition of Master Bakers' Association of Massachusetts, for Canadian reciprocity; to the Committee on Ways and Means.

By Mr. KOPP: Petition of citizens of third Mississippi congressional district, against a parcels-post system; to the Committee on the Post Office and Post Roads.

By Mr. LOUD: Petition of Mrs. Fred Garritt and 23 others, Island View Grange members and two others, and E. V. Esmond and 29 others, of Hale, Mich., against a parcels-post law; to the Committee on the Post Office and Post Roads.

By Mr. MITCHELL: Petition of citizens of Gardner, for House bill 25825; to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of State of Washington, for building of battleship *New York* in a Government navy yard; to the Committee on Naval Affairs.

Also, petition of National Bank Cashiers' Association of Massachusetts, for legislation to improve banking laws; to the Committee on Banking and Currency.

By Mr. McMORRAN: Petition of Capac Woman's Christian Temperance Union, for congressional investigation of New Mexico's constitution to prevent liquor traffic controlling the situation; to the Committee on the Judiciary.

By Mr. MOORE of Pennsylvania: Petition of Philadelphia Chamber of Commerce, for a general parcels-post system; to the Committee on the Post Office and Post Roads.

By Mr. O'CONNELL: Petition of Lynn Board of Trade, for construction of two revenue cutters at Government navy yards; to the Committee on Naval Affairs.

By Mr. PLUMLEY: Petition of General Stark Council, Junior Order United American Mechanics, of Springfield, Vt., for House bill 15413; to the Committee on Immigration and Naturalization.

By Mr. PUJO: Petition of Will Powell and others and Joe Miller and others, of Tullerton, La., against a parcels-post system; to the Committee on the Post Office and Post Roads.

Also, petition of the American National Live Stock Association, against Canadian reciprocity; to the Committee on Ways and Means.

By Mr. REEDER: Petition of the American National Live Stock Association, against reciprocal tariff with Canada; to the Committee on Ways and Means.

By Mr. SMITH of Michigan: Petitions of C. Van Camper and 21 others, of Shiawassee County; D. W. Irwin and 18 others, of Osceola County; W. J. Geddes and 34 others, of Mecosta County; P. Hayes and 8 others, of Menominee County; Stewart Bowman and 18 others, of Lake County; B. A. Pitchie and 18 others, of Sanilac County; James B. Strattan and 30 others, of Delta County; Master Chinos and 39 others, of Wexford County; Albert Gentle and 16 others, of Wexford County; and Lesser M. Van Camper and 21 others, of Shiawassee County, all in the State of Michigan, for a general parcels post; to the Committee on the Post Office and Post Roads.

Also, petition of John L. Paddison and 63 others, against the Canadian reciprocity treaty; to the Committee on Ways and Means.

By Mr. SIMMONS: Petition of New York Assembly, for the construction of the battleship *New York* in the Brooklyn Navy Yard; to the Committee on Naval Affairs.

Also, petition of Grange No. 1147, Patrons of Husbandry, of Garnis, N. Y., in favor of a parcels-post system; to the Committee on the Post Office and Post Roads.

By Mr. SWASEY: Petitions of Leeds Grange, Norway Grange, Crockett Grange, and Aroostook County Grange, State of Maine, against Canadian reciprocity; to the Committee on Ways and Means.

By Mr. THISTLEWOOD: Petition of citizens of Cutler, Ill., for House bill 23641; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Milk Producers' Association of Illinois, Indiana, and Wisconsin, against Canadian reciprocity; to the Committee on Ways and Means.

By Mr. TOWNSEND: Petition of citizens of Blissfield and Unionville, Mich., for the Miller-Curtis bill; to the Committee on the Judiciary.

Also, petition of citizens of Wayne County, Mich., favoring a parcels-post system; to the Committee on the Post Office and Post Roads.

By Mr. WOOD of New Jersey: Petitions of J. H. Simmons, of New York City, and Printing Pressman's Union, No. 70, of Trenton, N. J., against increased postage rate on magazines; to the Committee on the Post Office and Post Roads.